

Rent Seeking in a Market with Morality: Solving a Puzzle About Corporate Social Responsibility

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ABSTRACT. Rent seeking by lobbying for government favors is generally thought to be wasteful. In view of this wastefulness, it is puzzling that rent seeking by corporations has not been criticized as a failure to be socially responsible or even as an unethical business practice. This article examines the compatibility of rent seeking with corporate social responsibility by utilizing Thomas Dunfee's idea of a marketplace with morality. This idea is useful for solving this puzzle because in considering whether rent seeking is compatible with corporate social responsibility, it is necessary, first, to define rent seeking, which this article argues is a normative concept, and, second, to find some principled way of identifying rent-seeking behavior. It also solves the puzzle about rent seeking by revealing that the concept of rent seeking itself is of little use in determining whether certain conduct is or is not socially responsible since rent seeking activity cannot be identified without first evaluating which activity is rent seeking.

KEY WORDS: rent seeking, corporate social responsibility, market of morality, market with morality

Corporate social responsibility consists not only of engaging in business activities that benefit society but also of avoiding activities that impose significant social costs or harms. In view of this observation, it is surprising that rent seeking by corporations has not been criticized as a failure to be socially responsible

or even as an unethical business practice. "Rent seeking" is defined broadly as activities intended to gain a monopoly position, usually through lobbying for government favors. Although economists have different perspectives on this concept, rent seeking is commonly thought to waste scarce economic resources. In the standard economic analysis, rent-seeking activities create no benefit to society but merely redistribute existing resources. Because of this wastefulness, which is a social cost, we should expect to see corporations that practice rent seeking criticized and other corporations refrain from rent seeking for ethical reasons. Neither phenomenon has been observed, which is something of a puzzle. Either there is nothing morally wrong with rent seeking, or the moral wrong in rent seeking has escaped attention.

This article examines the compatibility of rent seeking with corporate social responsibility. It considers, in particular, whether there is anything morally wrong with rent seeking such that a socially responsible corporation ought to refrain from it. However, behind this deceptively simple question lie two other, more difficult ones. First, it is not clear that if rent seeking is considered to be socially irresponsible, it can be defined in a way that does not involve question-begging normative judgments about whether the consequences of rent-seeking activity are wasteful and, hence, socially undesirable. That is, the definition of the term "rent seeking" is problematic in that while some economists regard the activity with moral indifference and make no judgment about its social desirability, others consider all rent seeking to be wasteful. The question is whether "rent seeking" can be defined objectively in a way that makes no reference to its wastefulness,

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or whether rent-seeking theorists slip a requirement of wastefulness into the definition. Second, if the definition of rent seeking does involve normative judgments of wastefulness and social desirability, are these judgments arbitrary ones that lack broad acceptance, or can they be made on a relatively firm basis with some consensus?

In answering these questions, this article seeks to apply the insight of Thomas W. Dunfee that people express their moral preferences in a market with morality, which he used with great success in exploring issues of corporate governance (Dunfee, 1999). The main conclusions reached in this article are, first, that all rent seeking cannot be judged to be wasteful and, hence, socially undesirable without making normative judgments about the wastefulness or social desirability of the activities in question. Second, these normative judgments need not be arbitrary or unfounded. In particular, corporate decision makers can be guided by the market in which people's moral preferences are expressed in the way explained by Dunfee. A third conclusion, then, is that whether rent seeking is compatible with corporate social responsibility can be determined by the support that rent-seeking activities have in a market with morality. However, the concept of rent seeking itself is of little use in determining whether certain conduct is or is not socially responsible since rent-seeking activity cannot be identified without first evaluating potentially rent-seeking activities for their social desirability.

Problems about rent seeking

Rent seeking is commonly understood as socially costly activities intended to transfer wealth, usually by securing government favors, such as tariffs, quotas, subsidies, price supports, licenses, and so on (Tollison, 1997, p. 506). Since rent seeking allegedly involves a waste of scarce resources, it is considered by many economists to be socially undesirable and, hence, something that ought to be reduced or eliminated in an efficient economy. However, these economists generally couch their objections in political or public policy terms rather than in moral language. Rowley and Tullock observe that “for those concerned with advancing a nation's wealth, the elimination of rent seeking... is on a par (almost)

with support of the flag, motherhood and apple pie” (Rowley et al., 1988, p. 3). Indeed, Gordon Tullock, who originally formulated the concept,¹ expressed skepticism that anyone would regard rent seeking as a *moral* matter. He found it “implausible” that “people regard rent-seeking as immoral and that as a result, a great many people are simply unwilling to engage in it” (Tullock, 1989, pp. 6–7).² He continued, “Although I do not necessarily see such activity [rent seeking] as morally commendable, I see no signs that moral considerations have much effect here” (Tullock, 1989, p. 44).

In these comments, Tullock is still a positivist economist observing what people (including himself) *think* about rent seeking and offering no analysis of the morality or ethics of rent seeking. The only attempt at an ethical analysis was made by DeBow (1992–1993) in “The Ethics of Rent-Seeking?: A New Perspective on Corporate Social Responsibility.” After remarking on the lack of any attention to the ethics of rent seeking, he formulated the question as: “Is it ethical for a business – or an industry, or a union, or other private group – to seek the aid of government, with its formidable coercive powers, in order to benefit itself at the expense of the public at large?” (DeBow, 1992–1993, p. 1). Although DeBow offered an acute analysis of the ethics of rent seeking, the results are inconclusive for the reason that he found some instances of positive gains from rent seeking along with negative costs. In addition, the fiduciary duty of corporate leaders to benefit shareholders may morally commit them to engaging in rent-seeking behavior when that is the best strategy. DeBow also suggested, *ad hominem*, that the lack of moral concern about rent seeking may be due to a bias among business ethics scholars in favor of government intervention in markets and the redistribution of income and wealth, both of which occur in rent seeking.

The inconclusiveness of DeBow's analysis is due to the deeper problem of a confusion in the concept of rent seeking. The economic literature on rent seeking assumes that the concept is unproblematic and focuses largely on the extent of rent-seeking behavior and the amount of waste involved, as well as the means for reducing rent seeking. The main controversy among economists is over the determination of the costs attributable to rent seeking, which is to say the costs that should be measured. Specifically, are the costs merely the deadweight loss

from the reduced consumption of goods that results when government actions create higher prices, or should the opportunity costs of the resources diverted in seeking and defending against government favors also be included?³ The costs of rent seeking are either relatively small or quite large depending on which costs are measured.⁴

In the literature, those economists who consider rent seeking to be wasteful or otherwise socially undesirable assume that the concept itself is objective and value free so that the identification of rent-seeking behavior is independent of any normative judgment about its social desirability. That is, the identification of rent seeking is one thing; its moral evaluation is another. This assumption is wrong, however, and the ethics of rent seeking cannot be analyzed without correcting this error and gaining a clear understanding of the concept. One problem about rent seeking, then, is that the concept is defined by the major rent-seeking theorists in such a way that it applies only to activities that are wasteful of resources and hence, by definition, socially costly. However, judgments about wastefulness or costs are inherently subjective and value laden. As a consequence, that rent seeking is wrong becomes a tautology that is true by definition, but that conclusion still leaves the further problem of determining which activities are rent seeking and, hence, wasteful and socially undesirable. Finally, even if rent seeking is wasteful by definition, and even if we can determine which activities are such wasteful rent seeking, its bearing on corporate social responsibility still remains to be addressed. Do corporations have a responsibility to avoid wasteful, socially undesirable rent seeking?

Accordingly, the next three sections examine, first, the problem of defining “rent seeking”; second, the problem of determining which activities are wasteful, socially costly rent seeking; and, third, the question of whether rent seeking ought to be avoided as a matter of corporate social responsibility.

The problem of defining rent seeking

An economic rent is commonly defined as a return on a resource in excess of the owner’s opportunity cost or the difference between the return on a resource and its next best use (Tollison, 1982, pp. 575, 577). On this

definition, rent seeking is the same as profit seeking inasmuch as all profit seekers attempt to gain the maximum return on their resources. James Buchanan observed that, for most economists, rent seeking “is simply another word for profit seeking” (Buchanan, 1980, p. 3). One feature of this broad definition is that not all rent seeking is wasteful. Indeed, the search to discover new sources of competitive advantage, which is the essence of entrepreneurship, is the main source of wealth creation (Kirzner, 1989). If rent seeking is to be considered economically wasteful and, hence, socially undesirable, then it must be distinguished from other forms of profit seeking that are wealth creating and, hence, socially desirable.

The standard analysis

Tullock made this distinction by definitional fiat: The term “rent seeking,” he said, should be used “solely for cases in which whatever proposed has a negative social impact” (Tullock, 1989, p. 55). Buchanan wrote similarly, “The term *rent seeking* is designed to describe behavior in institutional settings where individual efforts to maximize value generate social waste rather than social surplus” (Buchanan, 1980, p. 4). For both Tullock and Buchanan, it is necessary to look beyond the *behavior* of rent-seeking activity (efforts to gain a maximum return on resources) to its *consequences* (the wasting of scarce resources).⁵ By contrast, Robert Tollison located the distinction in the *source* of the rent. Rents, he said, arise *naturally* in the price system or *artificially* through government action (Tollison, 1982, p. 575). The rents in rent seeking, he added, are “fake” as opposed to the “real” rents in profit seeking (Tollison, 1982, p. 578). On Tollison’s account, waste occurs only if government favors are subject to competition. If government action merely transfers wealth without any competition, then no waste occurs, only the transfer. However, if the government action is subject to competition (through lobbying, for example), then the resources expended in competing for such favors are wasted from society’s point of view (Tollison, 1982, p. 576). Thus, according to Tollison, “It is this activity of wasting resources in competing for artificially contrived transfers that is called rent seeking” (Tollison, 1982, p. 577).

Tullock's definitional fiat is, at best, incomplete because activities intended to create social wealth can fail, with the result that his definition would label well intentioned but unsuccessful entrepreneurial efforts as socially undesirable rent seeking. Andrew Hindmoor used the example of two companies, X and Y, each seeking to develop a cancer drug, the patent for which will create a temporary rent-creating monopoly (Hindmoor, 1999, p. 439). If company X succeeds while company Y fails, we then would, intuitively, describe both efforts as socially desirable, even though company Y apparently wasted resources in its unsuccessful attempt. Neither company could have known the consequences at the outset, and both companies had the same (good) intentions. Hindmoor found in Tullock's writings a solution to this apparent anomaly that defines rent seeking not by the *actual* outcome (which can be known only retrospectively) but by the *intended* or *expected* outcome (which can be known in advance, prospectively). Hindmoor interpreted Tullock as saying that if Y's investment had the potential to benefit "almost everyone," then, it need not be counted as rent seeking (Hindmoor, 1999, p. 438).⁶ However, this change from actual consequences to intended or expected consequences creates another problem to be considered shortly.

Tollison's distinction between natural and artificial sources of profit or rent is similarly flawed. Although Tollison suggested that the difference is whether rent is created in a market through the price system or by government action, this cannot be the distinction. The reasons are, first, that social waste can be created purely through market efforts to gain a monopoly and efforts to avoid this, and, second, that some government actions (to promote free trade, for example) can be wealth creating. Other remarks by Tollison suggest that the basis for the distinction between rent seeking and profit seeking is not the source but, as for Tullock, the consequences. He wrote, "'Real' rents are different from 'government' or 'fake' rents because rent seeking has productive implications in the first case but not in the second" (Tollison, 1982, p. 578). If consequences are what matter, then the natural/artificial distinction drops out as superfluous, so that his account is the same as Tullock's, with the same reliance on expected rather than actual consequences.

The main problem with defining "rent seeking" in terms of both behavior and consequences (either actual or intended) is that whether the consequences of rent-seeking behavior are wasteful or not depends on normative judgments about the social benefit of the activity. As several writers have observed (Glick, 1994; Hindmoor, 1999), Tullock and other theorists of rent seeking lack any objective basis for judging that the opportunity costs of the efforts to gain and avoid the transfers involved in rent seeking are a waste of economic resources. This is not to deny that rent-seeking activities may be wasteful but only to question the basis on which the wastefulness is determined. The argument for this claim requires an understanding of the alleged sources of waste in rent seeking.

Sources of waste

In the standard analysis of rent seeking, there are two sources of waste. One source is the deadweight loss that results from the lower consumption or the substitution of goods due to the higher prices created by monopoly, tariffs, and other government restrictions on trade. In terms of the graph in Figure 1, which is due to Arnold C. Harberger, the area of this deadweight loss is H, the so-called Harberger triangle (Harberger, 1954). In this diagram, Q_1 is the quantity of a domestic good that would be sold at price P_1 given a certain level of demand, whereas Q_0 is the quantity of a cheaper imported good that would be

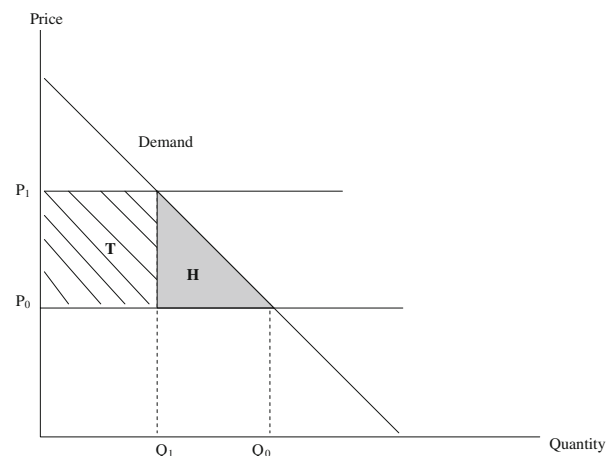


Figure 1. Costs of rent seeking.

sold at price P_0 in the absence of any tariff. On the standard analysis, the only loss of welfare is the shaded area H, which results from the lesser demand from the higher price produced by the tariff. The rest of the effect is merely a welfare-neutral transfer of wealth from foreign to domestic producers.

As Mark Glick observed, though, the loss in this triangle is a loss of utility and not a loss of resources (Glick, 1994). No resources are actually destroyed in area H; people merely derive less utility from the resources employed. However, a loss of utility is still a loss, although studies suggest that the cost is small.⁷ Tullock's major contribution to the theory of rent seeking lies in identifying the much larger opportunity costs that result from activities designed to gain or prevent the transfers of wealth involved in rent seeking. These costs (called "Tullock costs") are represented in the rectangle T in the graph. For Tullock and other theorists, this rectangle – or the trapezoid formed by H and T – account for what, in their view, is the high and socially wasteful cost of rent seeking.

Tullock and others argue that the resources devoted to seeking and avoiding the wealth transfers generated by government action involve a loss of the opportunity cost of these resources insofar as they could be employed in other, more productive uses. Moreover, the social gain of rent-seeking activity is further reduced insofar as the rents are dissipated by competition. As Richard Posner argued, if government action can create a monopoly right worth a certain amount, then competitors in a perfect market will spend collectively up to that amount to capture the benefit of that monopoly right, with the result that the rent is fully dissipated by competition. Posner writes, "Obtaining a monopoly is itself a competitive activity, so that, at the margin, the cost of obtaining a monopoly is exactly equal to the expected profit of being a monopolist." Furthermore, he continues, "The costs incurred in obtaining a monopoly have no socially valuable by-products" (Posner, 1975, p. 809). The consequence, then, is that rent seeking is a pure waste of scarce economic resources with no social gain.

Criticism of the analysis

The flaw in this argument is that even if rent seeking does not produce optimal results, it is still engaged in

by economic agents, acting out of their perceived interest to obtain something they consider to be of value. Economic theory makes no value judgments about preferences: whatever people seek is considered good. So if rent-seeking behavior represents the preferences of economic actors seeking to maximize their own welfare, then whatever consequences result from the expression of these preferences in a market or in lobbying government results in the preference satisfaction of the parties and consequently in some wealth creation. Although other behavior might have produced more preference satisfaction and, hence, more wealth, the gain is still a Pareto improvement and cannot be turned into a loss or waste merely by falling short of some ideal economy in which the greatest amount of wealth is created.

Glick made this point by questioning the compatibility of the claim that rent seeking is wasteful and, hence, socially undesirable with the principle of wealth maximizing efficiency in economics, by which he meant the claim that "voluntary trade between individuals results in welfare gains to both parties in the transaction" (Glick, 1994, p. 506). Although the claim that the deadweight loss of rent seeking represented by area H is waste is compatible with the wealth maximization principle, the corresponding claim about Tullock costs, area T, is not (Glick, 1994, pp. 509–510). For example, in a simple case of lobbying in which a company engages a lawyer to secure some government favor, the payment to the lawyer is a transfer that benefits the lawyer as well as the paying company, and both the company and the lawyer are engaging in a transaction that each believes is the best employment of his or her resources. If they are correct, then the outcome should be some social gain. According to Glick:

The problem is that this transaction between the potential monopolist and the lawyer is being undertaken voluntarily in the market. It is exactly the kind of transaction that property rules are designed to encourage. Under the wealth maximizing criterion, we must expect social gains, not social costs, from the transaction (Glick, 1994, p. 510).

Given this result, the consequences of rent seeking can be considered wasteful and, hence, socially undesirable only if one rejects the preferences of

market actors and substitutes some other values, or else if one considers government lobbying for favors to be an illegitimate activity. However, each of these alternatives involves certain normative judgments that lie outside of economic theory.

Taking the first alternative, one might argue that because the preference of a would-be monopolist in hiring a lawyer is intended to gain a monopoly advantage rather than some productive output, this preference is of less value and ought to be discounted if not discredited entirely. Although the rent-seeking activity achieves some preference satisfaction for the participants to the transaction, the preferences involved are, somehow, not worth achieving. Such a judgment may be justified, but, if so, it is based on some norm other than people's economic preferences. As Glick observes, "What the wealth-maximization criterion specifically does not allow us to do is look behind preferences or treat some preferences different from other, but this is precisely what rent-seeking theories ask us to do" (Glick, 1994, p. 510). Again, it may be true that the expression of certain preferences in rent seeking result in wealth reducing consequences and, hence, that certain preferences are of less value than others. However, an economic theory that takes preferences as the sole criterion of value cannot be the source of such judgments, which must, of necessity, lie outside economics.

The difficulty with this alternative can be illustrated by typical debates over government favors. For example, agricultural subsidies and tariffs are often criticized as (wasteful) rent seeking (Pasour, 1987, p. 127). However, the preferences of the beneficiaries are based not merely on the economic advantages that such government favors confer but also on such grounds as protecting local communities, securing the domestic food supply, and so on. Similarly, subsidies for development and deployment of alternative energy sources can be justified by environmental concerns. Whether these arguments are special pleading for wealth-destroying transfers or the promotion of wealth-creating goods depends on normative judgments about the social benefit of subsidies for agriculture, alternative energy, and other government-favored sectors of the economy. If the preferences of market actors are rejected as a basis for judgments about desirability, then, as Hindmoor observed, charges of rent seeking would

be "little more than expressions of personal belief" or "little more than a term of political abuse" (Hindmoor, 1999, p. 441). He wrote, "To accuse someone of rent seeking is to say simply that you do not approve of what it is their investment is intended to achieve" (Hindmoor, 1999, p. 441).

The second alternative, considering government lobbying for favors to be an illegitimate activity, is no less question begging. There are good reasons for arguing that the substitution of government power for market forces in economic decision making is generally inefficient and leads to waste. As DeBow observed, if any transfers resulting from government favors were positive sum, they would probably occur in the market without government action (DeBow, 1992–1993, p. 13). However, government intervention in markets is sometimes wealth creating, especially in providing public goods, preventing negative externalities, and solving collective action problems. All of these government services, which correct for commonly recognized market failures, are generally admitted to be legitimate functions of government that the state can deliver with greater efficiency than markets. In judging whether any activity aimed at securing government favors is illegitimate or legitimate but wasteful, it is necessary to employ value judgments that lie outside economics. As Pasour noted, "In reality, then, there is no objective procedure either in determining which activities of the state are illegitimate, or in determining the extent of risk-seeking waste associated with activities considered to be legitimate" (Pasour, 1987, p. 134). Pasour continued, "Rent seeking waste is a matter of opinion depending on one's view of the appropriate role of the state, which must ultimately be determined on the basis of ethics rather than economic theory" (Pasour, 1987, p. 137).

The conclusion that rent seeking cannot be identified without employing normative judgments does not vitiate the importance and usefulness of the concept. However, if "rent seeking" is defined as wasteful, then to avoid such waste – assuming that doing so is socially desirable and perhaps a matter of corporate social responsibility – it is necessary for a corporate decision maker to be able to determine prospectively whether proposed activities are instances of rent seeking. Otherwise, one could determine only retrospectively, after the fact, whether any activities were wealth creating or wealth

destroying. The next section considers how this might be done.

The problem of identifying rent seeking

Since the identification of rent seeking depends not only on behavior but also on consequences (either actual or intended), wasteful, socially undesirable rent seeking can be avoided by corporate decision makers only if they have some basis on which to make the necessary normative judgments. Unless some relatively objective basis for distinguishing between wasteful rent seeking and productive profit seeking is available, decision makers are able to rely only on their own subjective normative judgments about the value of any proposed activities, in which case, the distinction becomes arbitrary or, at best, disputable. The identification of rent seeking would be on firmer ground if business decisions could be based on commonly recognized and widely shared values that could be easily ascertained. Toward this end, the work of Thomas Dunfee is a valuable resource.

Markets with morality

One aim of this article is to examine whether Dunfee's theoretical construct of a market with morality can provide a basis for the normative judgments required for the identification of rent seeking. In several studies, Dunfee developed and applied this construct to normative questions about corporate governance and corporate social responsibility (Bowie and Dunfee, 2002; Dunfee, 1998, 1999, 2001). Thus, the application of the idea of a market with morality to rent seeking is promising, given that rent seeking, if it is wasteful, is the kind of negative externality that is contrary to corporate social responsibility, which Dunfee examined so successfully in other respects with the construct of a market with morality.

A market with morality or a marketplace of morality, for which Dunfee used the affectionate acronym MOM (Dunfee, 1998, p. 127), is simply a place in which individuals transact on the basis of their preferences. These preferences include not only

the standard economic interest of utility satisfaction (the greatest value at the lowest price), which is assumed in economic theory, but also moral beliefs or desires about right and wrong conduct. According to Dunfee, it is "a marketplace in which transactions represent the aggregate acted-upon moral preferences of its participants" (Dunfee, 1998, p. 127). Since moral beliefs or desires can be known by individuals' revealed preference and, thus, become priced in the market, a decision maker who is attentive to the marketplace has a basis for determining the moral norms that are prevalent in society. A market with morality, thus, provides an important, if incomplete and sometimes inaccurate, guide for decision making. Dunfee wrote that although "MOM is an important reference point for understanding business morality..." "MOMs can go astray and produce problematic morality" (Dunfee, 1998, pp. 137, 138). Despite the fact that even a strongly expressed preference for certain moral beliefs or desires does not necessarily establish an "obligatory morality" (Dunfee, 1998, p. 136), it nevertheless creates a strong presumption that Dunfee expressed as the Principle of Greater Preponderance, which he stated as follows:

The greater the consensus within the marketplace of morality that a particular practice is good/bad, the greater the burden of proof for those who claim a higher normative ground for rejecting that consensus (Dunfee, 1998, p. 140).

Applying MOM

In order to understand how a market with morality or a marketplace of morality – the two terms were used interchangeably by Dunfee – might work in identifying rent seeking, consider two typical examples of possible rent seeking.

Case 1: Corn farmers, faced with a glut of corn on the market with falling prices, consider the alternatives of planting another crop, say arugula, or lobbying government to require a certain percentage of corn-based ethanol in the gasoline sold to consumers. The return on growing corn for ethanol production is higher than that on growing arugula, which, in turn, is higher than the return from growing corn

without the higher prices due to a government-imposed ethanol requirement.

Case 2: Manufacturers of solar panels, finding that the current demand for their product cannot support further research to make more efficient panels at a lower cost, lobby government for a subsidy by providing tax credits to homeowners and businesses for the installation of the panels. With the tax credits, enough users would be induced to buy solar panels to finance research which would eventually result in cheaper, more efficient solar panels.

Each example involves the seeking of government favors that result in a transfer of wealth to those lobbying. The transfer of wealth in the first case is from consumers to corn farmers; and in the second case from tax payers to solar panel manufacturers. In both cases, oil companies would suffer losses from a declining demand for oil.

Whether either one is wasteful rent seeking depends on the normative judgments about the worth of the government favors and/or the legitimacy of seeking these favors. Lobbying for an ethanol requirement or tax credits for solar panels involves the use of resources the opportunity costs of which could exceed the gains that accrue to the beneficiaries. Corn farmers and solar panel manufacturers are better off, but whether society as a whole gains so that the lobbying is wealth creating or wealth destroying depends on how society's members value the consequences. Are the consequences worthwhile?

The answer to this question cannot be gained merely by people's willingness to pay, which is possible only when moral beliefs or desires are directly priced in the market. With regard to pollution-reducing gasoline, Dunfee cited evidence to show that consumers expressed their desires by paying more for it, even though purchasing the higher-cost fuel was not required by law (Dunfee, 1999, p. 141). Such evidence of market behavior directly supports the conclusion that people value pollution reduction. (Since no government action is present, this example would not involve rent seeking, even if the consequences were wasteful.) However, Dunfee allowed for indirectly determining people's moral beliefs or desires from their market behavior as expressed in various markets, mainly in consumer markets but also in labor and financial markets.

First, if market prices are the *output* in a market with morality, then the *input* is the disposition or tendency of individuals to express their moral beliefs or desires in the market. In contrast to the outputs in MOM, these dispositions or tendencies were described by Dunfee as the inputs of people's "passion of (or for) propriety" or POP (Dunfee, 1998, p. 128). These inputs can be measured in a market by calculating the costs (including opportunity costs) of actually implementing moral beliefs or desires by valuing the time, effort, and money that individuals spend in expressing their points of view. In Dunfee's words, "Valuing the opportunity cost of the time and effort, plus actual costs and expenditures, could produce a rough measure of individual moral viewpoints" (Dunfee, 1998, p. 132). Although such measurements may sound fanciful, companies devote considerable resources to determining consumer preferences before they are registered in a market. Much of the raw data for the measurement of POPs is, thus, already available in the form of companies' consumer research results. Many companies also conduct extensive employee surveys that yield similar data.

Second, the output of consumer preferences is reflected not only in market prices but also in the pressure that is brought to bear on companies through the media, activist groups, boycotts, and so on. Companies are very much aware of this kind of pressure and make great efforts to understand it and respond to it effectively. With regard to labor markets, Dunfee cited the effects of moral preferences found by Robert Frank on the compensative wage differentials for less altruistic jobs (Dunfee, 1999, p. 142; Frank, 1996, p. 96). Companies that find it more difficult to recruit workers for less altruistic jobs are provided with evidence by which to measure the moral preferences of potential employees. Finally, any impact felt by companies from the operation of socially responsible investment funds provides similar evidence from financial markets.

Third, Dunfee held that marketplace morality is reflected in "authentic norms" (Dunfee, 1999, p. 150). The term "authentic norm" is a technical one in integrative social contracts theory (ISCT) presented in the book *Ties that Bind*, co-authored with Thomas Donaldson (Donaldson and Dunfee, 1999, pp. 102–112). "Authentic norms," Dunfee wrote in "Corporate Governance in a Market with

Morality,” “represent a consensus pertaining to the propriety of particular actions based on the aggregate attitudes and behaviors of people within a particular community” (Dunfee, 1998, p. 150).⁸ In *Ties that Bind*, Donaldson and Dunfee explained,

The type of evidence required for these judgments will generally be commonly known and readily available. It will not require an elaborate amount of research.... Nor do such tests have to be complicated, expensive, or elaborate (Donaldson and Dunfee, 1999, p. 105).

In “Corporate Governance in a Market with Morality” and in *Ties that Bind*, Dunfee offered many means for identifying the authentic norms of a community or society. Without detailing these here, it should be noted that none of these means refer explicitly to the market behavior of individuals. Thus, although it may be relatively easy for corporate decision makers to determine people’s moral beliefs and desires, doing so has no necessary connection with a marketplace of morality. At this point, the usefulness of the construct of a market with morality is superseded by the practical guidance afforded by ISCT.

It is not necessary for the purposes of this article to examine how these three means for identifying rent seeking would apply to the two cases considered as examples. Ethanol requirements are controversial with regard both to the environmental impact and their net energy output (Farrell et al., 2006). Since the benefits in the form of lower fuel costs are readily apparent to consumers and the costs are largely hidden, the marketplace for morality is likely to give biased, unreliable results. The judgments to be gleaned about tax subsidies for solar panels, on the contrary, are likely to be reliably positive inasmuch as it is well recognized that investment in research is generally worthwhile and, given the character of research as a public good, a proper role for government.

The conclusion reached so far, then, is that insofar as the identification of rent seeking involves normative judgments about the worth and/or legitimacy of the activities involved in seeking government favors or other monopolistic advantages, Dunfee’s construct of a market with morality provides corporate decision makers with the resources for making these judgments prospectively. This conclusion is especially warranted if the concept of a market with

morality is interpreted to include the authentic norms that are part of ISCT. However, the problem with including authentic norms is that the means for identifying them has little connection with market behavior, and so ISCT alone might be sufficient to solve the problem of identifying rent seeking, without making any use of the MOM construct. This conclusion prepares the way for the third and final section dealing with the question of whether rent seeking ought to be avoided as a matter of corporate social responsibility.

A puzzle about corporate social responsibility

The puzzle about corporate social responsibility noted in this article is the apparent failure of the public or academics to consider rent seeking by corporations to be socially irresponsible behavior. If the seeking of monopoly benefits or government favors is socially wasteful and, hence, socially undesirable, as the major rent-seeking theory holds, then it would be expected that socially responsible corporations would refrain from rent seeking for that reason and that corporations that engage in it would be criticized for a lack of social responsibility. As already noted, Tullock found it “implausible” that “people regard rent-seeking as immoral and that as a result, a great many people are simply unwilling to engage in it.” Tullock added, “Public expressions in this area are mixed and confused, and feelings are difficult to deduce” (Tullock, 1989, p. 7). And the academic literature on corporate social responsibility makes little if any reference to avoiding wasteful economic activity, much less to the avoidance of rent seeking, as a requirement for being socially responsible. Either rent seeking is not morally wrong or its wrongness has been overlooked – inadvertently or perhaps, as DeBow charged, because of an ideological bias in the academic community.

DeBow, who is the only writer to address specifically the morality of rent seeking, described three possible moral objections: that rent seeking is wasteful, that it exploits the “rational ignorance” of the public, and that it redistributes wealth in a regressive manner. First, quoting Posner, who wrote that “in a world of scarce resources waste should be

regarded as immoral” (Posner, 1986, p. 25). DeBow argued that rent seeking, if it is successful, misallocates productive resources and successful or not, utilizes resources that could be put to more productive use in the economy. Second, when rent seeking results in higher prices or higher taxes (depending on the nature of the government favor), individuals have no choice but to pay more. This, in DeBow’s view, is a kind of government coercion which appears to be “*prima facie* undesirable” (DeBow, 1992–1993, p. 10). This coercion exploits people’s rational ignorance, he argued, because it is accepted only because the costs are diffuse and, hence, imperceptible to the paying public, whereas the benefits are usually concentrated for the rent seekers. Third, insofar as rent seeking involves wealth transfers, these are usually regressive because, he wrote, “lower income consumers will pay a disproportionately larger share of the indirect tax as compared to higher income consumers” (DeBow, 1992–1993, p. 11).

Countering these moral objections, in DeBow’s view, are several positive or, at least, defensible activities that seem to constitute rent seeking. As previously noted, a purely behavioral definition of rent seeking would seem to include beneficial profit-seeking activities. Furthermore, society may benefit in some instances when firms seek government favors, as when (DeBow’s examples) manufacturers of pollution-abatement equipment lobby for higher environmental standards or defense contractors lobby for the funding of necessary weapons systems (DeBow, 1992–1993, p. 12). The case of lobbying for tax subsidies for solar panels might be another instance of welfare gains from the granting of government favors. DeBow also suggested that government lobbying to preserve free competition and beneficial profit-making activities would be ethical, as would lobbying to maintain existing benefits of government favors that have already been priced into a firm’s stock.⁹ Furthermore, if one holds that managers have a fiduciary duty to maximize shareholder value, then it may be ethical, indeed ethically required, for them to seek government favors when this is the best strategy (DeBow, 1992–1993, p. 15).

One reason for the inconclusiveness of DeBow’s moral case against rent seeking is that he defined “rent seeking” broadly to include all activities of

seeking monopoly benefits by competition or government favors. Tullock, Buchanan, and others used a narrower definition in which, by definitional fiat, only wasteful activities are counted as rent seeking. On this revised definition, DeBow’s examples of beneficial rent seeking are defined away, leaving only cases of wasteful economic activity, to which his objections apply with full force. However, if, as argued in this article, the distinction between wasteful and non-wasteful activity can be drawn only by the introduction of normative judgments of desirability, then the moral case against rent seeking collapses into a tautology: unethical activities are unethical! That is, if the distinction between rent-seeking and non-rent-seeking activities depends on normative judgments about the worth of the activities, then, trivially, it is unethical to seek rents, because in describing an activity as rent seeking we have already judged the activity to be of no worth and, hence, its pursuit to be unethical.

This discussion provides a solution to the puzzle about why rent seeking is not commonly regarded as contrary to corporate social responsibility. One possible explanation for the lack of moral concern over rent seeking that would make it incompatible with corporate social responsibility is that the rent-seeking character of the activity in question has already been judged to be socially undesirable and, hence, incompatible with being a socially responsible corporation. Thus, the activity is considered to be incompatible not on the grounds that it is rent seeking but on other grounds, so that the charge of rent seeking is redundant or superfluous. Moreover, given the uncertainty about whether an activity is wasteful rent seeking, a charge of rent seeking cannot be made against an activity without determining that it is socially undesirable. Put simply, the charge that an activity is not socially responsible is easier to make than the charge of rent seeking, and it must be made prior to the making of the rent-seeking charge. As a consequence, rent seeking is not a very useful concept to employ in discussing corporate social responsibility. It does not follow from this conclusion that rent seeking is not unethical and, hence, not socially irresponsible; there follows only that not much is to be gained by posing questions about corporate social responsibility in terms of the ethics of rent seeking.

Notes

¹ The concept of rent seeking was introduced in 1967 by Gordon Tullock in a study aimed at showing that the welfare costs of tariffs and monopolies are not insubstantial (Tullock, 1967, pp. 224–232). The term itself was first used in Krueger (1974), which analyzed the costs of government restrictions on business in India and Turkey. Bhagwati (1982) coined the term Directly Unproductive Profit Seeking (DUP) to describe the same phenomenon.

² This position received some empirical confirmation in Mixon and Wilkinson (2000), which found that religious organizations, which might be expected to be more sensitive to ethical concerns than business corporations, engaged just as readily in rent-seeking activities.

³ Tollison (1982, p. 507) explains that Tullock “argued that expenditures made to capture a transfer were a form of social cost. The social cost arises because the resources used for transfer seeking have a positive opportunity cost somewhere else in the economy with respect to engaging in positive-sum activities. Transfer seeking is at best a zero-sum activity.... Social costs clearly arise in the process by which resources are shifted from positive- to zero- and negative-sum activities. Rent seeking, thus, embodies a social cost in terms of the foregone [sic] product of the resources employed in rent seeking.”

⁴ Tullock’s original article was prompted by Harberger (1959), which developed a method for measuring the cost of monopoly considering only the deadweight loss to the economy. This study found a small cost. Tullock argued that when the costs are expanded to include the opportunity costs of seeking and defending against government favors, the total costs are quite large.

⁵ Hindmoor (1999) uses the term *behavior*. Pasour (1987) describes the same element as *motives*.

⁶ The proviso “almost everyone” is necessary because some parties (private nursing homes, for example) might be adversely affected by the wealth-creating discovery of a cancer-treating drug (Hindmoor, 1999, p. 438).

⁷ In an early attempt to measure these costs, Posner (1975) found the deadweight costs of monopoly to be small and probably less than the costs of regulation to reduce them. Higher estimates of the costs of monopoly for the United States and the United Kingdom were found in Cowling and Mueller (1980). Laband and Sophocleus (1988) estimate that 22.3% of the American gross domestic product is consumed by rent-seeking and rent-protecting activities.

⁸ Donaldson and Dunfee, (1999, p. 102) wrote, “An authentic ethical norm exists within a group or

community whenever a substantial majority of the membership holds the attitude that a particular behavior is right (wrong) and a substantial majority act consistently with that attitude.”

⁹ The justification for lobbying to maintain existing benefits of government favors that have already been priced into a firm’s stock is that not doing so would “harm many investors who bought the stock at a price reflecting the capitalized value of the rent” (DeBow, 1992–1993, p. 14). This situation is described by Tullock as a “transitional gains trap” (Tullock, 1975).

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