

Sitting on its hands

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There's a crucial thing he misses: the United States has serious anti-monopoly laws – the Sherman Act and Clayton Act – on its books. Here in New Zealand the neoliberals' Commerce Act 1986 legalised price-gouging and decriminalised monopolistic conduct. The courts, right up to the Appeal Court and Privy Council, confirmed that this was what Parliament intended. Apart from fiddling with some wording in section 36, Parliament has sat on its hands for nearly four decades since passing that law.

I agree with Duston that at present the Commerce Commission is a waste of space and money so far as reining in monopoly goes. But pushing it to lose more court cases under the prevailing legislation risks worsening the waste without fixing the problem.

Whether the word "effect" produces a different outcome than the previous word "purpose" under the courts' "counterfactual test" remains to be discovered. But Parliament could short-circuit those legal arguments by simply restoring provisions of the old, US-style, Commerce Act 1975.

Geoff Bertram, Karori

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