

Jewish Contemporary Ethics Part 34: Business Ethics 1 – Competition

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The next section of this series will aim to highlight the Torah's perspective on a variety of moral and ethical issues, firstly in the worlds of business, then medicine and lastly the emerging technologies

which utilise artificial intelligence. Whilst each area requires more significant discussion, these articles will at least give a snapshot of the ethical intersections and conflicts between the secular 'law of the land' and halacha.

We shall begin with the concept of competition and trade restriction in business.

Competition in business means that different businesses work independently to attract the business of a potential customer by tendering the most favourable offer. The Scottish economist and father of modern capitalism, Adam Smith (1723-1790) asserted in 1776 that: "the rivalry of competitors, who are all endeavouring to jostle one another out of employment, obliges every man to endeavour to execute his work with a certain degree of exactness... Rivalship and emulation render excellency, even in mean professions, an object of ambition, and frequently occasion the very greatest exertions" (*The Wealth of Nations* pp. 341-342).

Many countries have laws which encourage competition and prohibit harmful or unfair actions, such as price fixing and aggressive or abusive marketing tactics. The laws also supervise the mergers and acquisitions of very large corporations, which could be unfavourable for the consumer.

From a Jewish perspective, competition is certainly encouraged for all the same reasons that Smith elucidated. However, there is a caveat: forbidding ruinous competition that could undermine the livelihood of others. This is derived from the Torah prohibition of moving a

boundary marker, known in Hebrew as *hasagat gevul* (Devarim 19:14).

The Talmud discusses a case of someone setting up a new mill near to an established mill which is positioned at the end of a cul-de-sac. Since the new mill would be positioned at the beginning of the cul-de-sac, potential customers would be forced to pass it, meaning that the original mill would remain unnoticed, thus ruining the owner's livelihood (Bava Batra 21b).

Rabbi Eliezer ben Yoel HaLevi (d. 1140-1225) rules that, in this case, the owner of the new mill has an unfair advantage. Based on this, Rabbi Moshe Isserles (known as the Rema 1530-1572) rules that opening a new business is forbidden if it would cause another business to collapse, although almost all other forms of competition would be permitted. In a famous *responsum*, the Rema prohibited a rival printer from publishing Maimonides' Mishnah Torah in competition with the original publisher.

Yet while established businesses have some protection, competition is encouraged if a new business offers competitive prices (Mishnah Bava Metzia 4:12). Rabbi Moshe Shternbuch (the current head of the Badatz Rabbinic court in Jerusalem) allows a rival restaurant to open next to an existing establishment, even though the former may undercut the latter.

In general, competition is encouraged, for it benefits the consumer, provided that appropriate consideration is given to the established businesses and livelihoods of others.

