

AntitrustConnect Blog

Competition Policy in Bizzaro Land: The Ongoing FTC Building Fiasco

Christopher Sagers (Cleveland-Marshall College of Law) · Thursday, March 22nd, 2012

In a recent [letter](#) to the House Transportation and Infrastructure leadership, all four sitting Federal Trade Commissioners joined in “grave concern” over that Committee’s plan to kick the agency out of the iconic, art deco building that FDR built for it nearly 75 years ago. The House Committee and its chairman intend to turn the building into a wing of the National Gallery of Art.

When I first heard about this mess (in February of 2011, when the Commissioners wrote a similar [letter](#)), I had thought the story was really about competition policy and the politics of regulation. Its apparent theme was poignant, bitter symbolism: a hostile and radically conservative House majority, intent on protecting the plutocracy from any government interference at all, had resolved to send a message. They would literally turn the Commission into a museum.

But as it drags on, it has come to seem quite different. The story is not actually that Congress has unwholesome motives or even any motives at all. The story is that Congress is completely broken.

A widely discussed [opinion survey](#) last year showed our Congress to be less popular among Americans than pornography, polygamy, British Petroleum during the Gulf oil spill, Richard Nixon at the peak of Watergate, and Communism. *Communism*. King George III of England is [reputed](#) to have been twice as popular among Americans, *during the American War of Independence*, as their Congress is today.

Popular disgust surely reflects Congress’s massive failure to act. The year 2011 was [officially](#) Congress’s least productive year in history (at least since productivity records were first kept in 1947), and it occurred during a period of multiple crises of international significance. But it also must reflect the foolish and trivial nature of many of the things our legislators do occasionally seem to accomplish. Devoting their agendas to pet peeves, hobby horses, and small stunts apparently meant as campaign fodder now consumes a lot of their time, even as historic crises persist, and millions of average people suffer.

Of course, the FTC building effort could be spun as an austerity measure, meant to exploit beneficial “privatization” insofar as the Commission would rent privately owned quarters, and its proponents frequently so spin it. The handful of Republicans behind it [argue](#) that it would save at least \$300 million, and they sometimes [claim](#) it would save as much as \$540 million. They lend their cost-reduction claims conservative authenticity by throwing in anti-government aspersions, as by [saying](#) that the Commissioners really oppose the plan only because “[i]t ruins [their] view of the

Capitol.”

But the claim is so unlikely that one doubts it could be the real motive. The non-partisan, competent, and well regarded Congressional Budget Office [says](#) that it will actually come at a net *cost* of \$270 million, because the Commission must rent or build new quarters within the District and will incur costs in moving and outfitting a new building to meet its technological needs. (Admittedly, some Republicans [question](#) CBO’s impartiality. But even if there were anything to their criticism, you can pretty safely bet on the following: if CBO says something will *cost* hundreds of millions of dollars, and then a Congressman—and as we shall see, it turns out to be one lone Congressman on a decade long vendetta—says that it will *save* as much as a half billion, then it is actually going to cost something.)

The effort also appears to lack any clear constituency. While the National Gallery of Art now [supports](#) the plan, it was not their idea and they were initially non-committal.

And indeed, no common sense motive seems to be at work. This whole fiasco seems actually to be one House committee chairman’s obsessive and apparently quite personal campaign, and one that has gone on for upwards of 10 years. Republican John Mica represents a low-population district on the northeastern coast of Florida. He grew up in Miami, did community college and finished at the University of Florida, and then spent a few years in real estate before beginning well over three decades in politics.

He first introduced a [bill](#) to evict the Commission in 2005, and has reintroduced it many times (see, e.g., [here](#), [here](#) and § 24(c) of a rather ominous [bill](#) incorporating it into a plan resembling one favored by the White House). He also appears to have pushed it with plenty of behind-the-scenes advocacy (see, e.g., [this story](#) and pp. 21-22 of [this 2010 report](#)).

Now, does “obsessive” seem like too strong a word? Well, during a subcommittee meeting in March 2011, Chairman Mica [said](#) “I have no other priority for the balance of my tenure in Congress.”

Times were pretty bad just then. Unemployment [remained](#) at nearly 9%. An alarming downward revision of economic growth estimates, along with persistent fears of European debt and increasing oil prices, put the still fragile recovery in [jeopardy](#).

The news was full of stories of state and local budget [crises](#) so severe that the police could no longer [enforce some laws](#). And yet Chairman Mica had no other priority than expanding an art museum. As he seems rather fond of [telling people](#), he is “a persistent [expletive].”

So it appears that a Republican from conservative small-town Florida wants to spend at least a hundred million or so on this project. He wants to do it at a time when both parties are so intent on fiscal austerity that it seems not to matter that more American children live in [poverty](#) than at any time since records have been kept.

Why?

Well, it seems to be nothing more than that this one guy just really likes art. A Mica staffer who has handled the effort for some years gave only this as an [explanation](#): “[Mica is] very much a fan of art in the [National Gallery] and just the arts in general.”

Mica himself feels free to [tell reporters](#) that he's in it because art is his "weakness."

"Some people drink, chase women, golf," he told that reporter. "I like art, architecture, a few antiques Everybody has their own thing. And this is mine."

He likes it, in other words, this one guy.

Meanwhile, what of the American consumer? What about that mass of average citizens who by wide, bi-partisan consensus benefit from consumer protection and antitrust enforcement? People who, also by wide consensus, are in dire straits in part because of conduct that the Commission and other federal regulators could address?

Let them eat cake.

The people by whom we are governed have apparently all gone crazy.

And indeed, it was a rather arresting moment at this year's Antitrust Section Spring Meeting when former Commissioner William Kovacic described Mica's quest as "the astonishing selfishness of one Member of Congress."

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