Review of *Uncommon Sense: Economic Insights, from Marriage to Terrorism*, by Gary S. Becker and Richard A. Posner

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The business model behind this book challenges the way that economists think about markets. First, a famous economist writes down his thoughts on a topic of his choice and sells them on the Internet at a price of zero dollars for unlimited access. Second, another famous economist responds to the first, and his thoughts as well are sold to anyone with access to a computer at a price of zero dollars. Third, after the two economists' thoughts have aged and ceased to be novel, a publisher collects them, prints them on paper, and sells them for $29.00 plus tax, even as they remain available on line for free.

Why would a rational, welfare-maximizing consumer pay $29.00 for articles that are accessible for free? Why are the articles worth more after seasoning than when they were fresh and new? At the least, this marketing strategy should raise questions about the explanatory power of Chicago-style economics, which assumes, among much else, that consumers are rational and that arbitrage will lead markets to clear at a single price. Unfortunately, *Uncommon Sense*, written by two leading adherents of the Chicago school, too often fails to analyze such discrepancies between theory and reality. In these pages, Gary S. Becker, a University of Chicago professor whose work on human capital and the economics of the family justly earned him the Nobel Memorial Prize in economics, and Richard A. Posner, a federal appeals court judge and prolific author on law and economics, engage in a dialogue on economic policy. When it is good, their dialogue sheds great light on important issues. Too often, though, the interchange leads to predictable assertions that markets work best and to distressingly little introspection about why they may not.

*Uncommon Sense* is taken verbatim from the blog that Becker and Posner began writing in December 2004, currently accessible at http://uchicagolaw.typepad.com/beckerposner/. (The authors shifted to this location in December 2009; at this writing, the older posts remain available at the previous location, http://www.becker-posner-blog.com/.) The entries have been grouped into topics, from sex to the university to natural disasters. There are several different entries within each topic, each consisting of an article by one of the authors and a response by the other. At the end of each section, either Becker or Posner contributes a couple of pages of "afterthoughts" noting subsequent developments related to the postings and reaffirming the authors' views.

Perhaps the most encouraging part of this enterprise is the respectful attention to which each of the authors gives the other's views. The authors are longtime academic colleagues (in addition to judging, Posner is a lecturer and former professor at the University of Chicago), and the blog has the comfortable feel of a debate that has been in progress for many years over lunch at the faculty club. For those of us

who have come to associate blogging with incivility, *Uncommon Sense* demonstrates that polite online discussion is not an oxymoron.

The problem with this book is not the format but rather the content. All too often, the authors slide over the complexities of the issues they address. While their purpose is to expose how economists might think about matters of current debate, in many cases their conclusions suggest that economists would just as soon avoid questions for which they have no ready answers.

Consider their discussion of one of the world's more urgent problems-the need to conserve water. Becker points out that the bulk of freshwater use in the United States is for agriculture and power generation, not for household consumption, and asserts that the absence of appropriate pricing encourages wasteful use of water. His proposed policy response is the use of pricing to reduce demand. Posner sees more important factors contributing to water scarcity, namely public ownership of water systems and propertyrights arrangements that encourage excessive consumption. What these two authors' posts on this subject have in common is an underlying belief that markets alone, properly structured, can resolve the problem of freshwater scarcity.

Before evaluating these assertions, it is worth noting that water is a unique commodity. Consumption of water is essential for the survival of humans and livestock and for the cultivation of most food crops. To this writer, himself a fan of water pricing, the commonplace fact that water consumption is a physical necessity would seem to have important implications for water policy. While anticipated scarcity of oil or iron ore might be expected to encourage substitution, for certain purposes water has no substitutes and is unlikely ever to have substitutes. Pricing and property rights might lead to greater use of desalination, as Posner suggests, but they will not bring forth innovations that replace water. Moreover, while many individuals can and do survive without personal access to oil or iron ore, the same is not true of water, to which every living individual requires access. Distributional considerations are thus of huge importance. Neither Becker nor Posner discusses the characteristics that make water fundamentally different from other resources, perhaps because that would complicate their simple freemarket stories.

There is no question that "free" access to water leads to waste, and that pricing would serve to encourage conservation. But Becker, in focusing exclusively on pricing as a way to limit demand, fails to address the likelihood that the variable cost of water is so trivial for many users that even very large price increases may not bring about much change in consumption patterns. Water pricing is surely a necessary condition for water conservation, but whether it is a sufficient condition is an empirical question that depends on the price elasticity of consumption, not a subject Becker discusses. If price elasticity is low, an effective approach to conservation may well require a mix of policies, incorporating not only pricing but also measures such as requiring lowflow shower heads and water recycling by golf courses, the types of government mandates for which Becker has no use.

Similarly, Posner's preference for private over public ownership of water systems is based on ideology, not economics. It is not at all obvious why a privately owned system necessarily results in greater conservation than a government-owned system. The property-rights issues he mentions are real, as some property-rights arrangements impede pricing and even encourage the waste of water, but Posner passes over the fact that addressing them would engage the government in a massive redistribution of wealth as it reallocates water rights among individuals-hardly the sort of arbitrary government intervention he would approve of. Even then, it is not apparent that clarification of ownership rights, by itself, would lead to adequate conservation in the face of scarcity. Water conservation is a complicated issue, and Becker and Posner perform no service by offering simplistic answers.

A similar unwillingness to confront messy real-world issues is evident in Becker and Posner's discussion of drug patents. Both agree that patents are essential to encourage socially valuable research and development by pharmaceutical manufacturers. Nonetheless, both would shorten patent lives. Becker would have the government approve drugs more quickly and then devote more effort to studying risks and side effects once a drug is in use, allowing a reduction of the patent term without reducing the period during which the drug can be sold under patent protection. Posner believes shorter patent terms will reduce companies' incentives to undertake excessive, socially wasteful research in hopes of discovering blockbuster drugs and lead instead to more valuable research in other areas. All of these points are provocative. But, as Becker admits, U.S. patent protection of pharmaceuticals has led to a perverse situation in which Americans pay higher prices for drugs than people in the many countries where government price controls are in effect. Put differently, the U.S. patent system leaves American drug purchasers to subsidize pharmaceutical research for the benefit of drug purchasers in other countries. What should be done about this free-rider problem? Should it affect the way the United States handles drug patents? Would linking domestic patent protection for drugs with price controls establish a more reasonable relationship between consumer benefits and research incentives? As with water conservation, the subject is simply more complex than the authors are prepared to concede.

At times, these exercises in playing with economic theory become annoyingly facile. In October 2006, when the arrest of the leader of a polygamist Mormon sect was in the news, a Becker post suggested that polygamy might be treated as a matter of contract law rather than criminal law. If the objection to polygamy is that it exploits women and continues the subjection of women to men, he wrote, then why not allow women to write marriage contracts stipulating that the husband cannot take additional wives and providing for damages in the event of divorce due to violation. "[I]sn't it offensively patronizing to women to believe they cannot make their own decisions about whether to enter into marriages that contain other wives?" he asked (p. 27).

Becker clearly developed this idea to shed libertarian light on the implications of government regulation of behavior, and it is indeed an interesting thought

experiment. But he fails to pursue it to a conclusion that contradicts his own views. A moment's thought will make it apparent that writing a marital contract addressing all relevant contingencies related to polygamy-a "complete" contract-would not only be impossible, but could create negative externalities. Imagine a prenuptial contract that allows a man to have a second wife only so long as his annual income exceeds $100,000. How might such a provision be enforced if the husband's income later falls below the threshold and is inadequate to support both families? Should society permit a contract that gives absolute financial priority to the first wife and her children, even if later wives and their children starve? Or suppose a first wife agrees that her spouse may have up to two children by a second wife, and the second wife then bears triplets. Should the law condone monetary damages in favor of the first wife, thereby harming the innocent triplets? Becker's modest proposal is less an illustration of the possibilities of resolving social issues privately than of the difficulties inherent in doing so. In fact, it makes a good case for government regulation of the marriage market.

Where this book is at its best is where the authors disagree on fundamental points. New York City's ban on trans fats in food sold in restaurants occasioned such an exchange in December 2006 and January 2007. Posner, surprisingly, supports the ban even though, as he concedes, "A strict Chicago School economic analysis of the ban would deem it inefficient" (p. 139). His reasoning is that most consumers lack the information to measure their total consumption of trans fats and to assess the risk from additional consumption. In this case, the city's ban could provide large economic benefits (such as lower rates of premature death) at little cost, justifying a transgression against libertarian principles. Becker reaches the opposite conclusion, suggesting that the market will respond to consumer concerns about trans fats, leading restaurants to eliminate them without regulation. "[W]hile city and other governments should continue to help provide the best information available about the effects of trans fats and other foods on health, market forces of supply and demand should determine the fats consumed," he writes (p. 145). This debate neatly illustrates important aspects of decision making under imperfect information and sets forth alternative ways of dealing with that imperfection. Becker is happy to allow individuals to make their own choices in the absence of effects on others, whereas Posner insists that "It is not paternalist to delegate a certain amount of decision making to the government" (p. 151), especially when there are some goods, such as a ban on trans fats from restaurant food, that the government can produce more cheaply than the free market.

The overriding conclusion this reviewer takes away from *Uncommon Sense* is one the authors likely did not intend: that economists' views on public issues may have as much to do with values and beliefs as with close analysis of data. Despite all the scientism of the modern economic enterprise, with its massive equation systems and its impenetrable statistical methods, priors matter. The questions economists ask and the policy views they put forth are heavily influenced by preconceived ideas about the way markets work, the way individuals decide, the proper role of the state, and a host of other factors. There is nothing wrong with this-except that in its efforts

to appear scientific, the profession often pretends otherwise. To their credit, Becker and Posner at least have laid their prejudices open to public inspection, and one can judge their insights accordingly.