

**Freedom and Efficiency -  
Two Approaches to Antitrust Law**

- 1. What is Antitrust Law about?**
- 2. The Normative Dimension**
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# What is Antitrust Law about?

**Case 1:** The 7 main producers of vitamin-pills agree to jointly raise prices by 20%. Furthermore they split up the market in different regions. Every company is assigned a separate region with exclusive distribution rights.

**Case 2:** M is the world's biggest software company. It possesses a market share of 95% for operating-systems. M decides to reward a 20% rebate for its operating systems to all those computer-sellers who also install the company's new browser software.

# Getting an “idea”

## Antitrust Law is about ...

- undertakings
- commercial behavior
- competition
- consumers
- big money

# The Normative Dimension

**Problem:** Which behavior should be banned?  
What is “good”, what is “bad” competition?  
Why?

**A question of philosophy...**



# Other concepts

**Wide range of possibilities**



**Depends on tradition,  
culture, religion etc.**



**Specific Indonesian  
approach?**

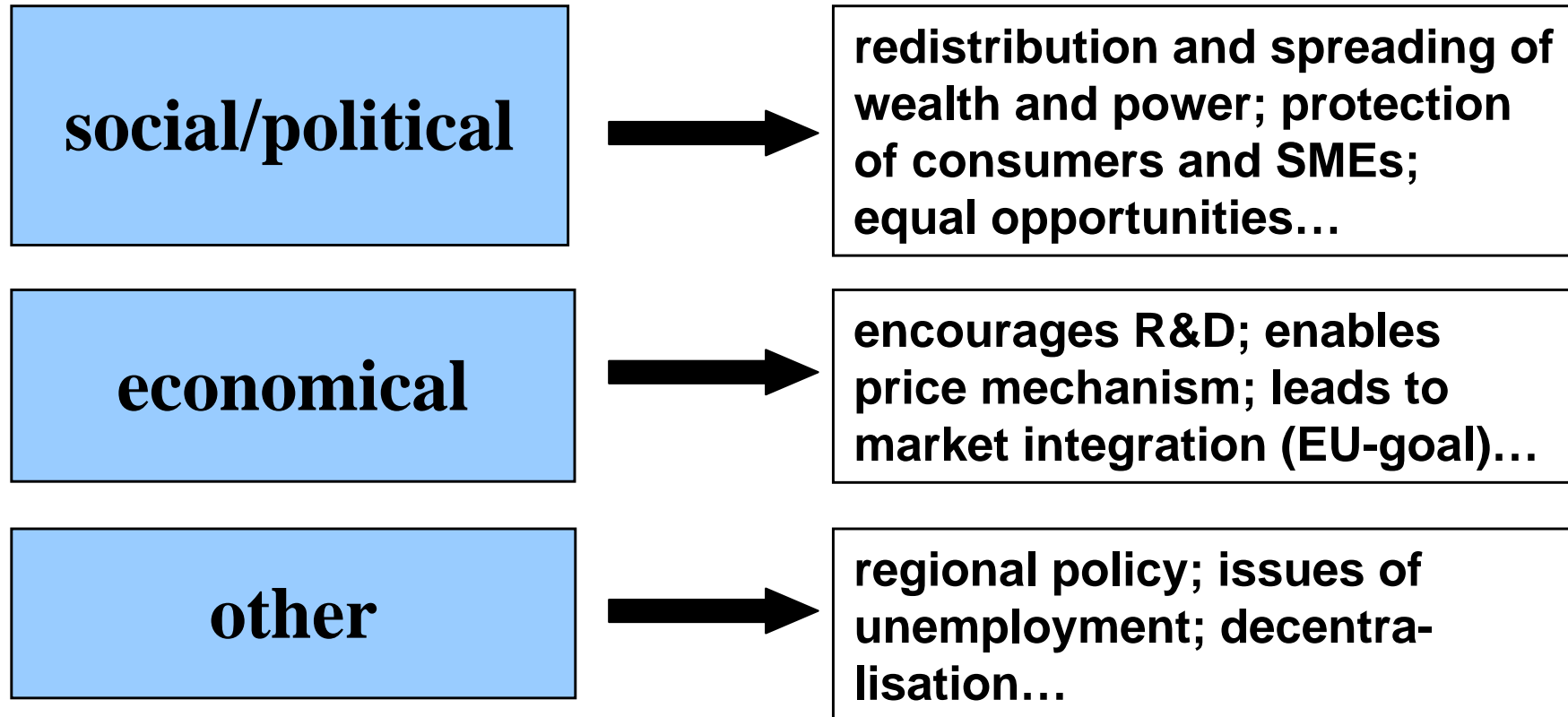
**For Example: Socialism; “Fair  
Boxing Game”; Spiritualism;  
Anarchy and more ...**

**Even true for countries with  
identical statutes – Example:  
German Civil Code in Japan**

**Islamic tradition? Others?  
Interesting field for research  
and innovation!**

# Various Functions, (Side-) Effects,

Competition Law has various positive (side-) effects, that can also serve as moral justification



# Freedom - Foundations

**Freedom: Still the most important but also most controversial topic of “western civilisation”**

## History

- **Struggle against aristocracy**
- **Bills of rights**
- **French Revolution**
- **Modern Constitutions**

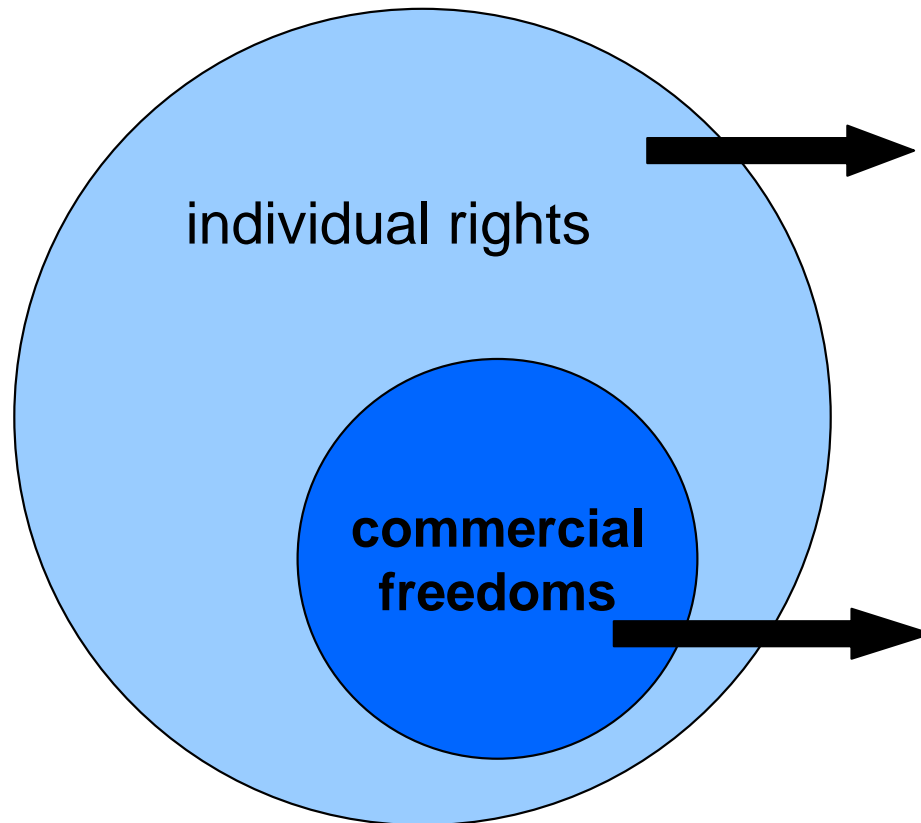
## Philosophy

- **GB: Mill; Locke**
- **D: Kant; Fichte**
- **F: Rousseau, Montesquieu**
- **Rawls, Habermas...**

## Situation today

- **“International Bill of Human Rights”**
- **Regional agreements**
- **National constitutions**
- **...**

# Freedom - Aspects



- freedom of speech, press and expression; religion...
- freedom to vote; to demonstrate...
- equal protection, due process...

- freedom of
  - contract
  - ownership
  - establishment
  - competition

# Efficiency

**Historical foundation: Utilitarianism**

**Assumptions:**

- given individual preferences
- wealth maximisation as goal

**Utility <-> Preference**

# Efficiency Criteria

**Pigou:** Maximisation of overall wealth. Tendency for redistribution because of diminishing marginal returns.

**Pareto:** Situation A is more efficient than situation B if one person is better off and the others don't end up worse than before.

**Kaldor/Hicks:** The benefiting person must be able to compensate others so that again no one ends up worse than before.

# Application – Case 1

**Case 1:** The 7 main producers of vitamin-pills agree to jointly raise prices by 20%. Furthermore they split up the market in different regions. Every company is assigned a separate region with exclusive rights of distribution.

# Monopolies and Freedom

- One aspect of the case: creation of local monopolies
- Consumers can no longer choose. They have to accept the conditions dictated.
- Commercial freedoms are not unlimited. Companies should prosper because of the good quality and price of their product; not manipulation, market power etc.
- The state should take steps to ensure the freedom to choose; should protect diversity of options

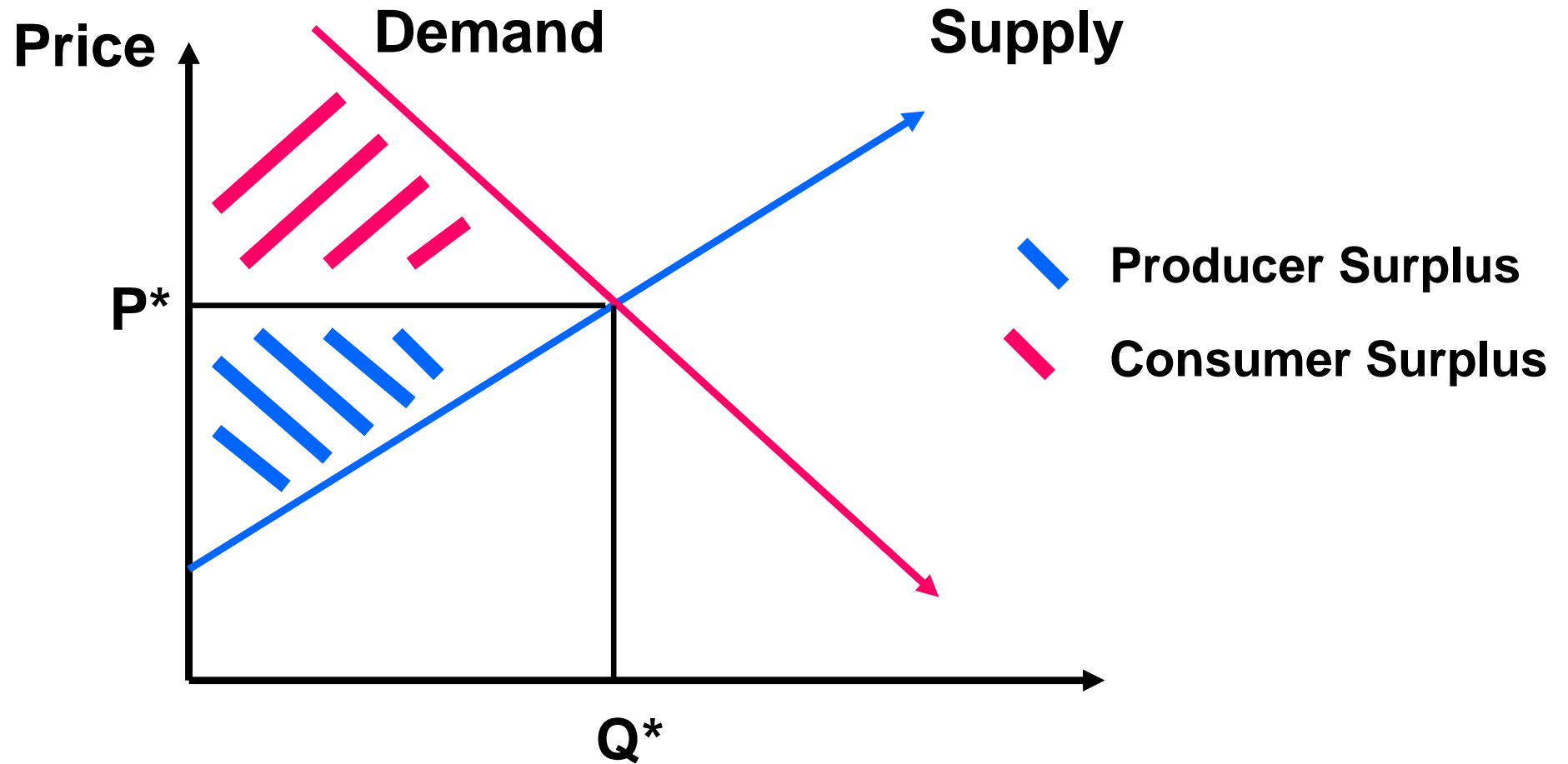


**monopolies are unwanted**

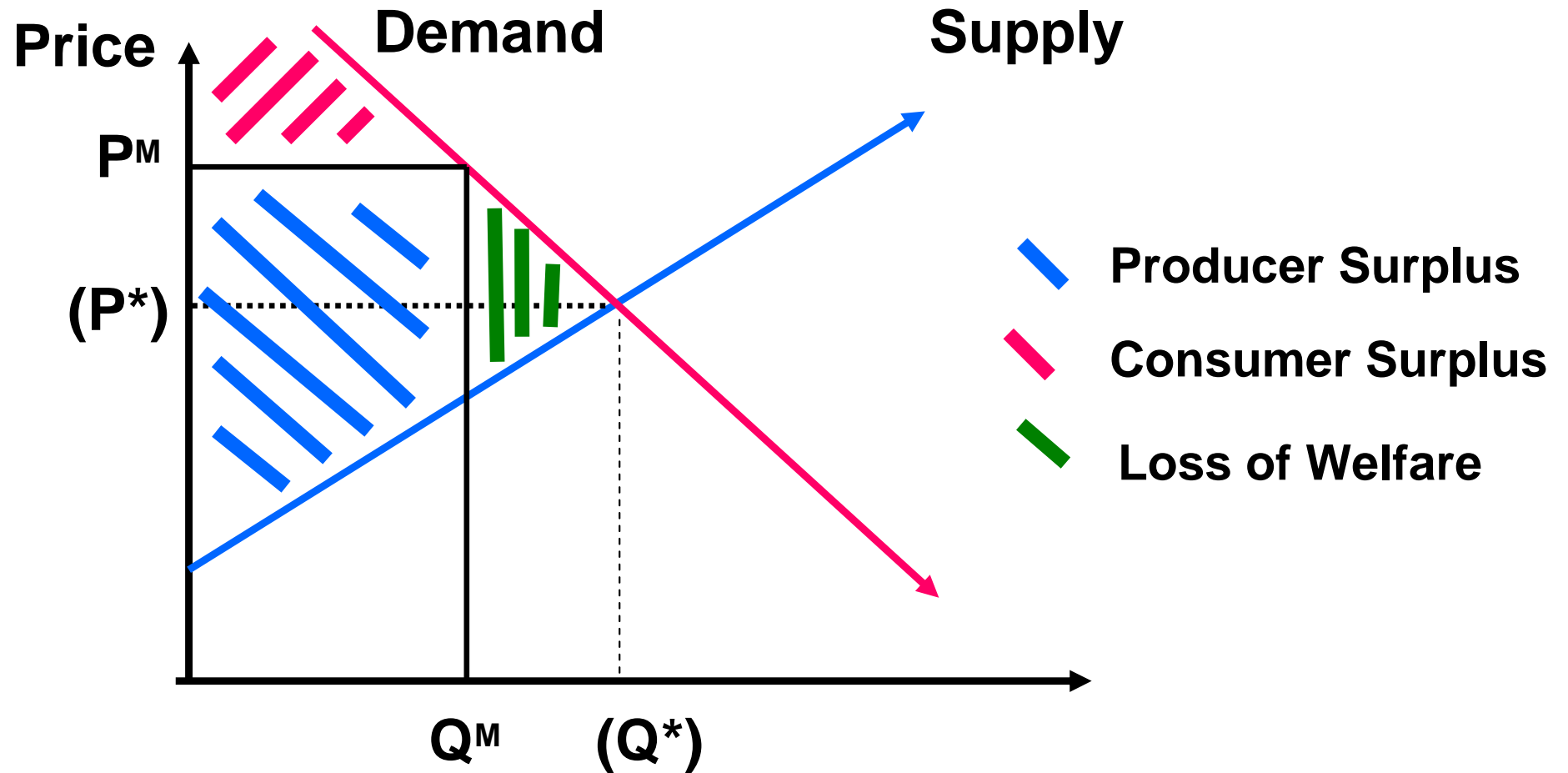
# Monopolies and Efficiency

- monopolist will demand higher prices and produce less than under stiff competition
  - reason: monopolist can set the price as he wishes; whereas normal competitors take price as given
- this reduces welfare, especially on the side of the consumers, but also overall
- less incentives for effective production, general “slackness”

# Perfect Competition



# Monopoly



# Application – Case 2

**Case 2:** M is the world's biggest software company. It possesses a market share of 95% for operating-systems. M decides to reward a 20% rebate for its operating systems to all those computer-sellers who also install the company's new browser software.

# Discussion of Case 2

**Suggestions please...**