The Man Who Brought You Discount Shopping

The late Eugene Ferkauf transformed the American retail industry.

By John Schnapp

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Eugene Ferkauf, who died recently at age 91, pioneered modern discounting, a way of getting around price-fixing legislation that radically transformed the American retail business and set the stage for the rise of giants like Wal-Mart.

Retail price-fixing in the United States—often packaged for popular consumption as "fair-trade" laws—was a Depression-era concoction. Launched in California in 1931, it was quickly copied by state legislatures across the country. These statutes were premised on the idea that manufacturers retain a legal interest in the price of their products even after actual ownership has moved downstream to retailers. The laws were written so that once a single retailer in a fair-trade state agreed to observe the manufacturer's proposed retail price list, it would in effect impose those prices on all other retailers in the state.

Conceived as a means of protecting small, independent merchants against predatory chains, fair-trade laws were pushed through state houses by legislators beholden to the influential retail chambers of commerce. The big manufacturers, especially appliance makers like GE, Westinghouse, RCA and Motorola, usually lent tacit support. It was easier for them to deal with a multitude of small customers through their wholesalers than to directly confront retailers big enough to muscle them for price concessions and promotional allowances.

Eugene Ferkauf seemed an unlikely giant killer. In 1948, three years after getting out of the Army Signal Corps, he and his childhood Brooklyn friend Joe Zwillenberg opened a luggage store in a loft on East 46th Street in New York. They called it E.J. Korvette, the two initials drawn from their first names and the "Korvette" never fully explained. To build traffic, they began offering appliances at bargain prices. They discovered that high volume at reduced prices, combined with stringent cost control, generated robust profits.

This drew the ire of traditional appliance retailers, who launched more than a hundred lawsuits citing violations of fair-trade statutes. Compliant manufacturers urged their wholesalers to cut E.J. Korvette off, but Ferkauf and his colleagues readily found backdoor sources of supply. E.J. Korvette rapidly catapulted itself from its humble midtown roots into a chain of regional superstores, mostly in suburban locations stretching from the East Coast to Chicago.

Meanwhile, the legal foundation of fair-trade laws was gradually being undermined in state-by-state litigation brought under the antimonopoly structure established by the Clayton Act. This gradually erased the ability of manufacturers to impose retail prices. Kmart and, later, Wal-Mart came surfing to national prominence on this wave of the future.

In the end, the demise of fair-trade laws didn't help E.J. Korvette. Ventures into high-end audio, home furnishings, soft goods and even supermarkets made E.J. Korvette considerably bigger but also shakier financially. In July 1962, Ferkauf was on the cover of Time magazine, hailed as the PiedPiper of the new consumer-centered retailing. Four years later he was ejected from his company, which by 1980 went into final bankruptcy. Ferkauf's legacy, though, was secure. He had finally killed off legally protected price fixing.

Or at least it seemed so. More recently, new life has been transfused into the corpse. In 2004, the luxury watchmaker Omega filed a complaint in a California federal district court, claiming that its pricy Seamaster models had found their way through an unauthorized third party to Costco, which sold them at about two-thirds of the Omega-approved price. Omega asserted legal control over retail pricing through copyright law. This was a novel argument, and the case made its way to the Supreme Court, where Omega prevailed in 2010.

In Europe, luxury manufacturers like LVMH have been lobbying the [European Union](http://topics.wsj.com/organization/E/EU/4624?lc=int_mb_1001) to leash online merchants. They contend that e-commerce bargain prices undermine the image of exclusivity that they have developed. Echoing 1930s proponents of American fair-trade laws, LVMH argues that discount Internet retailers disadvantage its conventional bricks-and-mortar merchants, whose costs are higher because of the "value-added services" they provide.

Ferkauf wasn't part of these recent battles, of course. After being forced out of E.J. Korvette, he transformed himself from merchant to philanthropist, primarily as a benefactor of Yeshiva University, which named its graduate school of psychology after him.

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