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“Fairness” and competition law,

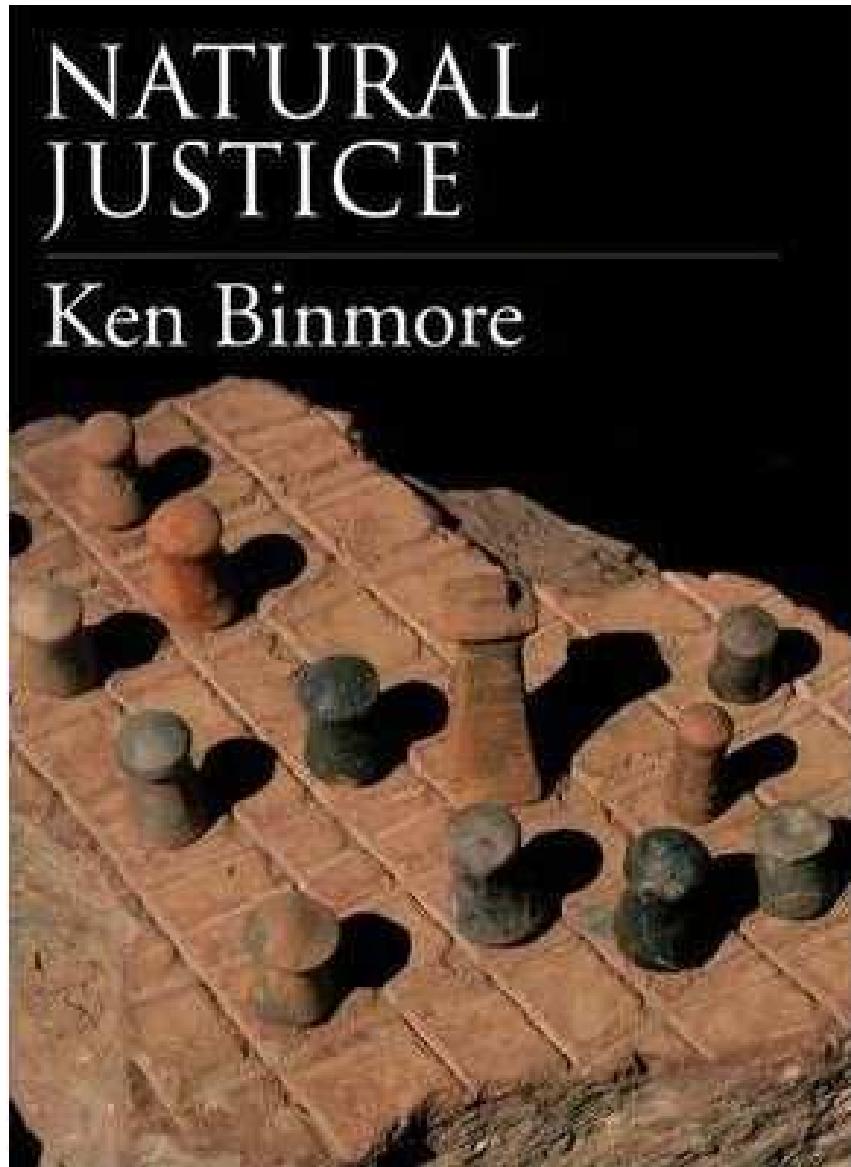
25-26 January 2018

13th GCLC Annual Conference - "Fairness" In Competition Law And Policy:
Panel 1 on Fairness as an Objective of Competition Law: Exploring the Roots
Maurits Dolmans

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“Fairness” – a universal standard?



Rawls, *A Theory of Justice*, 1971

1. Principle of Equal Liberty

Each person's liberty is bounded by others' equal liberty

2. Difference Principle

Differences allowed so long as they raise living standards of everyone, and equality of opportunity is guaranteed

Corning, *The Fair Society*, 2011

1. Equality

Cover basic needs for all

2. Equity

Distribute surplus according to merit

3. Reciprocity

Require contribution in proportion to ability

“Fairness” – a variable standard?

- *“more fairness (less self-interest) in distributive justice is evident by children growing up in small-scale urban and traditional societies thought to promote more collective values.”* Rochat, 2009



Osani circle game / Ubuntu

Our sense of fairness is affected by cultural background, personality, a variety of unconscious biases and *“rules of naive accounting that diverge in major ways from the standards of rationality assumed in economic analysis.”*

“many actions that are both profitable in the short run and not obviously dishonest are likely to be perceived as unfair exploitations of market power. Such perceptions can have significant consequences if they find expression in legislation or regulation.” Kahneman, 1986

Fairness in competition law

(the complainant's *and* defendant's perspective)





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