

# **The Competition of Ideas: Market or Garden? \***

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Metaphors matter. A good metaphor encapsulates the essence of an issue and guides our discussion of it along productive paths. A poor metaphor, in contrast, can cloud our perceptions and systematically distort our sense of what is at issue. Furthermore, particular metaphors may suit certain agendas and frustrate others, thus making our choice of metaphors a politically charged issue in contestation among social groups.<sup>1</sup> In all these ways, our choice of metaphors is a far from trivial matter.

Here we address one particularly popular and powerful metaphor, that of 'the marketplace of ideas'. Implicit in that metaphor is the assertion that free speech and free markets are of a cloth.<sup>2</sup> Whether there is an argument behind that sub-rosa assertion —whether the analogy is actually apt or systematically misleading —is what we here want to explore.

The idea that a liberal society is characterised by a 'marketplace of ideas' has gained increasing currency since the phrase first came to prominence in an influential 1919 dissenting opinion in the US Supreme Court.<sup>3</sup> At the heart of the claim that free speech in a liberal society is best

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<sup>1</sup> Feminist philosophers have scrutinised the metaphors we use to understand political life or the status of philosophical reasoning itself and exposed the ways in which these have often operated to exclude women from full participation in these spheres. See, for instance, Genevieve Lloyd, The Man of Reason: 'Male' and 'Female' in Western Philosophy (London: Routledge, 1993); Carole Pateman, The Sexual Contract (Cambridge: Polity, 1988).

<sup>2</sup> A claim made explicit in, e.g., R. H. Coase, 'The market for goods and the market for ideas', American Economic Review (Papers & Proceedings), 64 (#2) (1974), 384-402.

<sup>3</sup> See Abrams v. United States, 250 U.S. 616 (1919) at p. 630. Stanley Ingber, 'The Marketplace of Ideas: A Legitimizing Myth', Duke University Law Review, 1 (1984), 2-3, n. 2.) argues that the marketplace of ideas metaphor is at work in many US Supreme Court decisions (cited in Alvin Goldman, Knowledge in a Social World (Oxford: Clarendon Press, 1999) at 192). Other important sources for this idea are the works of John Milton and John Stuart

modeled as a marketplace of ideas is the claim that ideas are in competition with each other, and that this competition is productive. Through this competition, good and true ideas will triumph and poor and false ideas will be driven out. It is therefore counterproductive, so the argument goes, for the state to interfere in the operations of this market by censoring some ideas or promoting others. The marketplace of ideas is implicitly a ‘free market’.

Our criticism of these claims will proceed along two related lines. Firstly, we shall question to what extent the contestation of ideas taking place in a liberal society can be said to occur in a 'marketplace' at all. That is, we shall query whether the metaphor can be given any content.<sup>4</sup> Secondly, we will examine whether —if and to the extent that this competition can be represented as a free market —such a market will function in the way that users of the metaphor presume it will, to produce true ideas and intellectual progress. We conclude by offering another metaphor —that of a garden rather than a market —which seems better suited to capturing the real nature of the competition of ideas.

## **I. The Nature of Markets**

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Mill. See John Milton, *Areopagitica* (New York: Legal Classics Library, 1992); John Stuart Mill, *On Liberty* (Harmondsworth, England: Penguin, 1974). However, as Jill Gordon has shown, the association of Mill with this idea is mistaken, as Mill nowhere makes use of the marketplace analogy; Jill Gordon, ‘John Stuart Mill and the “Marketplace of Ideas”’, *Social Theory and Practice* 23, No. 2 (Summer 1997), 235-249.

<sup>4</sup> As we shall discuss below, the metaphor might be either one of a ‘market for ideas’, in which believers are in competition with each other for the best ideas, or of a ‘market for adherents’ in which it is ideas that are thought to be in competition with each other for believers.

Before we can evaluate the ‘marketplace of ideas’ metaphor, we must first set out what is involved in a market, and hence what is entailed by the claim that the relations governing the production and distribution of some good constitute a market. Effectively functioning markets require the simultaneous presence of many factors:

**1) Markets logically presuppose well-defined property rights and laws of contract.** Markets revolve around exchanges. No one can exchange anything with anyone else unless they own it, and have a right to transfer their use rights in it to someone else. Contract law is needed to underwrite the market exchange of those property rights.

**2) To operate effectively, markets pragmatically presuppose a law of torts and the incorruptible administration of the laws.** Otherwise there would be no need to buy property rights from their present owners: it would be cheaper simply to take, or to bribe judges and police to let you take.

**3) Markets logically presuppose differences in tastes.** Parties would not consent to an exchange unless each prefers what she gets to what she gives in the course of that exchange.

**4) Markets logically presuppose goods which are tradeable.** Goods which are not transferrable to anyone else cannot be the subject of market exchanges.

**5) To operate effectively, markets pragmatically presuppose goods which are:**

a) **excludable.** No one has any reason to pay for the use of goods from which they cannot be excluded even if they did not pay.

b) **divisible.** Variable quantity (or quality) is necessary for supply and demand to adjust to one another and reach a market equilibrium.

c) **not characterized by increasing returns to scale.** Otherwise there is a 'natural monopoly' in those goods.

**6) To operate effectively, markets pragmatically presuppose:**

a) **free entry.** There must be no barriers to entry (or exit) from the market for both buyers and sellers.

b) **perfect competition.** No one buyer or seller can have so much 'market power' as to be able to alter the price of the goods through unilateral action.

c) **perfect information.** Everyone must be perfectly informed regarding the characteristics of all the commodities involved in the market transactions in question.

If (but only if) all the conditions specified as 'logically necessary' (1,3 & 4) are present, markets of some sort or another will exist. If all the further conditions are also present (2,5 & 6), the market will 'operate effectively'. That is just to say, through successive marginal adjustments in supply and demand, a market-clearing 'price' (or, more generally, rate of exchange among the goods in question) will emerge, such that at that price no one wants to buy more or sell more of the good in question.

If any of the conditions specified for the market to 'operate effectively' fail to be met, that result will not necessarily occur. If tort law is poorly specified or the whole system of property-contract-tort law is corruptible, then kleptocracy will take the place market exchange. If tort law is insufficient to prevent us from imposing uncompensated costs on others (externalities), those effects will be overproduced relative to the perfect market equilibrium. Goods which are non-excludable (public) will be under-supplied through ordinary market exchanges. Goods which are indivisible (lumpy) will be either under- or over-supplied. Monopolies and oligopolies will drive up prices and profits by under-supplying goods wherever there is imperfect competition (owing to increasing returns to scale, barriers to entry or exit or interpenetration of economic and political power).

## **II. Markets for Ideas**

In considering how competition between ideas might lead to the development of ideas that are more nearly 'true', it is natural to think of this occurring as the result of competition between consumers to possess true ideas.

Consumers are presumed to desire true ideas and therefore to be willing to purchase them for a higher 'price' . On this interpretation, the marketplace of ideas consists primarily of a market for ideas. This is the most natural and familiar reading of this metaphor and it is the one with which we shall begin.<sup>5</sup>

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<sup>5</sup> When we turn to consider how such competition might lead to the reproduction and eventual triumph of true ideas, however, it is the competition between the producers of

There are various different kinds of markets, which realise the pragmatic suppositions discussed above in different ways and to various extents. We begin therefore by discussing each in turn, considering in each case how well it might describe the ostensible 'market for ideas'.<sup>6</sup>

### **A. Ideas as a Commodity: The Forum as Fish Market**

Clearly, ideas are not commodities of the sort ordinarily bought and sold in markets of the sort described above.

To start with, property rights in ideas are ill-defined. You can patent techniques for replicating an invention; you can copyright expressions and images, and require others to pay a fee for literally copying them. But you cannot patent or copyright ideas as such. No one owes John Rawls royalties for a discussion of the 'original position' phrased in their own words. If property rights in ideas are thus ill-defined, it is not clear in what sense you can own, buy or sell them.

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various ideas to attract believers that moves to centre stage. In this case, the marketplace of ideas contains also what we describe as a 'market for adherents'. We consider the implications of this second and less familiar way of reading the metaphor in Section IV below.

<sup>6</sup> Note that one of the prerequisites for the effective functioning of markets listed above — perfect information — by definition cannot be met in any marketplace for ideas. By definition, there must be asymmetrical information between the two parties for one to have some information that the other wants to buy. And that is of course perfectly consistent with neither of them being 'perfectly informed'. For this reason alone, there is no reason to suppose that any equilibrium reached by a market in ideas will be Pareto optimal. This knockdown objection to the metaphor has been well elaborated by Alvin Goldman (Op. cit. note 3, 199-201). We pass over it lightly here merely because it is obviously right and obviously devastating, requiring no further discussion from us.

Furthermore, ideas are paradigmatically public goods. You can deny access to the books containing them to people who have not paid for the privilege. But it is not possible to exclude others from access to the ideas as such. People talk; ideas spread. Again, if goods are not excludable, and you can enjoy them whether or not you pay for them, then there is no reason for anyone to buy them.

Notice, too, that ideas are less 'traded' than 'shared'. I might agree to share my ideas with you in exchange for a sack of potatoes or its monetary equivalent. But in sharing the ideas with you, I have not 'alienated' them from myself. I still harbour those ideas, even after you too have come to adopt them as your own.

Ideas also tend not to be infinitely divisible. Instead they come in 'packages'. Some are logically entailed by others, and inseparable for that reason. Even in the absence of strict logical entailment, some ideas are more or less proximate to one another in Quine's 'web of belief', and more or less inseparable for that reason. Goods being 'lumpy' like that interfere with the fine marginal adjustments of supply and demand required for markets to come to stable equilibrium.

Furthermore, even if it were possible to specify a sense in which ideas constituted commodities, it is far from clear what is supposed to be exchanged for ideas. That is, what the currency is, for which ideas are 'bought' and 'sold'. How is it that people compete to 'purchase' valuable ideas and how does their doing so lead to some ideas flourishing while others

are eliminated from the market? Perhaps what individuals have to offer is the fervour of their belief. We believe ‘more’ in the better ideas. But it remains deeply mysterious how this represents an exchange with the producer of an idea, how it could allow competition between consumers to purchase the best idea, or how it advantages the producer of the idea. As noted above, my believing in an idea does not mean that the person beside me who believes less is thereby deprived of it, no matter how fervently I do so. Nor is it clear how my fervent belief could make it possible for the ‘producer’ of an idea to profit from my belief. Perhaps ‘producers’ of ideas profit simply from having a large number of fervent believers, because of the social power this brings. This, however, suggests that the competition that occurs in the marketplace of ideas is better described as the sort of competition described below between ideas (or between those who proffer them) for believers or adherents rather than as competition between believers for ideas.

Pragmatically, there are many other reasons for thinking that the marketplace for ideas does not live up to the market ideal. In an era of hyper-expensive mass communications, effective entry to the market is hardly free and competition far from perfect. Given the political influence exerted by owners of those outlets, one might also query the incorruptibility of those responsible for making and enforcing the laws, as well. There are externalities among ideas, just as in the ‘market for lemons’ . There are asymmetries in the information that different people have, thus affording

some people more ‘market power’ than others.<sup>7</sup> But given all the difficulties noted above — respects in which ideas simply seem not to have the properties required for them to play the role of marketable commodities at all — these further pragmatic objections to the analogy are largely otiose.

### **B. Ideas as a Franchise**

If ideas cannot be marketed as commodities, perhaps they might be as a ‘franchise’. What MacDonalDs do when franchising is to allow some individual owner of a particular outlet to use their name and their products, under license from the parent company, either for a flat-rate fee or more typically for a share of the profits.

Modeling ideas in this way solves some of the problems encountered in modeling them as commodities. Most especially, it allows for the fact that they are shared rather than transferred, when they are ‘sold’ to someone else. And it also goes some distance toward accommodating the fact that ideas sometimes come bundled together (a franchising operation sells a package, after all).

Other problems persist, however. It remains a mystery how ideas as such (rather than the license to reproduce Ronald MacDonalD's image) can be owned, bought or sold. It remains a mystery how non-purchasers can be excluded from the enjoyment of an idea (as opposed to being precluded from

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<sup>7</sup> See George A. Akerlof, ‘The market for “lemons”: quality uncertainty and the market mechanism” in An Economic Theorist’s Book of Tales (Cambridge: Cambridge University Press, 1984), 7-22.

selling their burgers under the name 'Big Mac').<sup>8</sup> It remains a mystery what it is that is exchanged for ideas or how such exchange makes possible competition among them.

Those problems, together with the pragmatic ones mentioned above (which in many ways prove all the more problematic in cases of mass franchises), serve once again to engender serious doubts that markets in ideas, understood as franchises, will actually approximate the market ideal.

### C. Ideas as a Network

Consider finally the possibility that ideas function in markets neither as commodities nor as franchises but rather as networks. Networks facilitate interaction among people who are party to that network by reducing transaction costs among them, compared to the costs of comparable transactions with non-networked parties. Being connected to the telephone system, or to the internet, are obvious examples.

Suppose what we are marketing, when marketing ideas, is really membership in such a network. This is not implausible: after all, it is easier in ever so many ways for people who share broadly the same ideas to interact profitably with one another.

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<sup>8</sup> The franchise model explains how goods are 'public' and non-excludable within those 'club' created by the franchises; James M. Buchanan, 'An economic theory of clubs.', *Economica*, 32 (1965), 1-14. The issue remains how non-members are excluded from the idea (as opposed to using the images).

This model has all the same advantages of the franchise model. The network analogy envisages ideas being shared rather than traded, and it envisages them coming in packages rather than as infinitely divisible, separable components.

Literal networks, of course, are owned by someone or another, and they charge connection fees and deny access to anyone who does not pay them. That remains a point of disanalogy: it is hard to see how that could happen with ideas as such. But the point about networks is that it doesn't need to. Because they typically display increasing returns to scale, the more people there are connected to the network the better off all existing members of the network are in consequence. Thus, instead of wanting to exclude others unless they pay to enter, existing members of the network would be happy for everyone to join for free. There are 'network externalities' at work here, of a positive (rather than more commonly discussed negative) sort, with each being better off the more others use the network.<sup>9</sup>

Externalities and increasing returns to scale make for imperfections in markets, however. Their natural tendency is to generate concentration, and ultimately monopoly, with everyone ending up in the same network. That violates the perfect competition requirement that is essential to the ordinary functioning of free markets.

That is a feature of markets in networks generally. It is a feature of markets in ideas, more specifically. There is a familiar tendency, noted by

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<sup>9</sup> Michael L. Katz and Carl C. Shapiro, 'Network externalities: competition and comparability', *American Economic Review*, 75 (1985), 424-40.

Marxist writers and many others, toward intellectual hegemony. That may have less to do with class conspiracies than network externalities in communicative relations.

### **III. Will truth triumph in a free market?**

All that is to say that markets in ideas, whichever of those three ways we conceive them, are unlikely to live up to the standards of ideal markets. What follows from that? Well, just that the markets will not necessarily clear; they will not necessarily reach equilibrium; there will not necessarily be a stable equilibrium 'price'; that it is not necessarily the case that no one can be made better off without anyone else being made worse off.

From the point of view of people who care about markets, all of that matters deeply. But does it matter from the point of view of people who evoke the 'marketplace of ideas' analogy? What they seem to be suggesting is that, when ideas compete with one another in the marketplace, the 'best product' will win out. By that they mean to imply some external, objective criterion —roughly, 'the truth will win out' —rather than just internal, subjective ones.

If it were possible for a market in ideas to meet all the ideal conditions specified above, it would then be true that supply and demand would reach equilibrium: at the marginal rate of return on offer, no one wants to buy or to sell more new ideas. Everyone is subjectively as well off as they can be,

without someone else being made subjectively worse off. But that is not necessarily the same as everyone being objectively as right as they can be.

Those two will be equivalent if, and only if, subjective well-being tracks objective truth. That is to say, an ideal market in ideas can work to winnow out the truth only among people who are themselves truth-seekers and that alone. Suppose they were seeking, at least in part, something else — comfort or reassurance, for example. Then the market that maximizes their satisfaction with the ideas they have will not maximize the truth of these ideas, and that alone. Instead, it will maximize some complex function that combines considerations of their truthfulness and their comfortableness.<sup>10</sup>

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<sup>10</sup> See here also Goldman, *Op. cit.* note 3, 197-198.

#### **IV. A Market for Adherents?**

Suppose now that the people who are purveying ideas in the marketplace themselves profit in some way if a large number of people come to believe in and adhere to their ideas —perhaps because of the social power this brings. Producers of ideas therefore compete with each other to try to gain the largest number of adherents.<sup>11</sup> The marketplace of ideas can thus also be thought of as involving a ‘market for adherents.’ From the perspective of the producers of ideas, what is ‘on sale’ in such a market is the belief of individuals.

This way of describing the operations of the marketplace of ideas has the advantage of providing what seems to be an intuitively plausible answer to the question of how winning the belief of individuals may lead to the idea triumphing in the marketplace. Each extra adherent is another advocate for the idea and increases the likelihood that others will come to be convinced by it. The social (and perhaps economic) power gained by having many adherents also multiplies the opportunities for propagating the idea through advertising, mass communications or organised public forums.

Seeing the marketplace of ideas as consisting in a ‘market in believers’ rather than (or as well as) a ‘market in ideas’ , however, is an important gestalt shift, which leads to an increased awareness of the difficulties with the metaphor. It becomes immediately obvious that the

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<sup>11</sup> As Alvin Goldman notes (Op. cit. note 3, 183) commercial media organisations sometimes admit that this is their own understanding of the nature of their enterprise, selling audiences to advertisers rather than (or in addition to) the ideas that their papers or programs promote to those who read or view them.

producers of ideas will have incentives to offer ideas which are attractive to their 'customers' , without this necessarily consisting in their being more 'true' . Adherent-seekers will be tempted by a range of market strategies that are unavailable to truth-seekers. Disinformation campaigns to discredit their opponents are one. Intimidation and bribery are others. Politicians characteristically put together a package of carrots and sticks with which to attract supporters; few of those incentives and rewards have much, if anything, to do with 'the truth'.

If that is how ideological coalitions are constructed, then it is immediately apparent that the upshot of the 'contest of ideas' played out in the public forum, understood as just such a political marketplace (a 'market for adherents' ), will not necessarily approximate 'the truth'. Even when such nefarious activities do not occur, it remains improbable that a marketplace of ideas, conceived as a forum in which ideas compete for adherents, will lead to the triumph of truth unless the highly unlikely condition that believers always prefer to believe true ideas over false ones is met.

An argument for 'free political speech' might nonetheless be sustained, on preference-satisfying rather than truth-revealing grounds. The Truth is only one of many things that people value, and it is in consequence only one of the many things that politicians might offer to electors in exchange for their votes. Still, a process of competitive tendering for people's votes will (under highly idealized conditions, anyway) yield outcomes that Pareto-optimally respond to the full range of desires that voters actually have.

If voters are prepared to trade off truth for something else, at the margin, then so too will the political parties pandering to them. Supposing we are preference-satisfiers rather than truth-seekers, then so be it. Still, we ought know what we are getting in this marketplace for believers: what people want, not (necessarily) what is true.<sup>12</sup>

## **V. Beyond the Marketplace of Ideas**

What then is left in the notion that freedom of speech should be conceptualised according to the model of a marketplace of ideas? Not a great deal. What the market metaphor does capture is (a) the competition between rival ideas that occurs in a liberal society and (b) the liberal presumption against placing restrictions on the sorts of ideas that may be espoused therein. However, these two features do not a market make. In the many ways described above, competition between ideas is disanalogous with the exchange of goods in a marketplace. At best the metaphor is incoherent, at worst pernicious, as when it encourages us to believe that true ideas will always triumph in any contest with falsehood. The possibility of various types of ‘market failure’ is likely to be overlooked in the celebration of the various ways in which such a market is ‘free’ .

Given the overwhelming disanalogies between the promulgation of ideas in a liberal society and the operations of the market, it is interesting to

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<sup>12</sup> Gordon, Op. cit. note 3, 241.

speculate as to why the metaphor has become so prevalent. One suspects that its currency is linked to the triumph of a free market ideology in the broader political and economic spheres and serves as an instrument for promoting that ideology —almost as if we can no longer imagine a form of freedom that is not a freedom to participate in a market. Of course, the assimilation of such an important democratic freedom as freedom of speech to the operations of the free market also serves to imply that the existence of the free market is an essential condition for democracy.

If, as we have argued, the metaphor of the free market of obscures more than it reveals, what other ways might there be for thinking about the regulation (or lack thereof) of speech in a liberal society? If the insight of the market metaphor serves merely to highlight the competition that occurs between ideas and to establish a presumption in favour of non-interference, then any metaphor that captures these aspects of the issue will be equally apposite.

Consider this alternative metaphor. Imagine a liberal society as a 'garden' in which ideas may take root, grow and flourish —or wither and die out. Like the market metaphor, the 'garden of ideas' metaphor recognises that ideas compete with each other to take root in a society. There may even be a presumption against interfering with the natural flourishing of the garden.<sup>13</sup> In order to determine which are the most productive and vigorous strains in the garden, we must be prepared to stand back and let nature take

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<sup>13</sup> However, as we shall see below this, presumption is likely to be much weaker than that implied by the metaphor of the market.

its course. Too much fiddling about in the garden will ensure that nothing can grow.

But unlike the market metaphor, the garden metaphor encourages us to question whether the soil on which the seeds of ideas fall, or in which they are planted, suits all of them equally well. Some ideas may wither and die out in a particular place, not because they are bad ideas but because the 'soil' in which they attempt to take root does not suit them. There may be any number of cultural, historical or material circumstances that may make it difficult for a particular idea to flourish in any given society, regardless of how true it is.

Furthermore, the garden metaphor draws our attention to the fact that whether an idea flourishes or fails to take root is often partially determined by the 'ecology' of the surrounding ideas. That is, sometimes an idea will fail to achieve currency in a society, not because it is a bad idea but because the prevalence of other bad and false (yet widely accepted) ideas makes it hard for it to be seen as plausible. If a community affirms a sufficiently large number of falsehoods, then isolated true beliefs that arise and are promulgated within it are likely to be discarded in light of the weight of countervailing opinion. Indeed such beliefs may not even make sense to the majority community. This is one way of reading recent feminist arguments to the effect that the prevalence of pornographic texts in a community renders it impossible for the authentic voices of women to be heard as they intend.<sup>14</sup>

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<sup>14</sup> See, for instance, Catherine A. MacKinnon, Only Words (Cambridge, Mass.: Harvard University Press, 1993).

Ideas that crowd out or ‘strangle’ other more valuable competitors in this fashion may be thought of as ‘weeds’ —valueless ideas that are nonetheless capable of preventing other ideas from seeing the light of day.

Finally, this metaphor highlights the fact that our assessment of these matters cannot occur independently of our judgements about which ideas deserve to survive and flourish. Which ideas are ‘weeds’ and which are desirable cultivars is clearly a value-laden question that cannot be answered without reference to our beliefs about which are true (and important, and relevant, and so on).

The ‘garden of ideas’ metaphor thus points to the possibility that, while we have good reasons to be cautious in doing so, intervening in the competition between ideas may at least sometimes prove productive. A good gardener encourages the development of new and more vigorous strains. She eagerly awaits the sprouting of some new seed that may prove to be some valuable hybrid or add life and colour to her garden. But she will also be alert to the possibility that this new growth represents a potentially dangerous invader that might overrun those plants she knows to be valuable—in which case they may need to be suppressed or contained.<sup>15</sup> Alternatively, some ideas may need to be nurtured and protected from competition with others for some little while, in order to be able to demonstrate their true potential once they have become sufficiently established. Others may be usefully cross-

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<sup>15</sup> This is especially the case if hundreds of members of this new species spring up at once, blown in from some alien environment. This situation is analogous to that faced by indigenous or minority cultures that are brought into contact with an industrial or majority culture in circumstances of great inequality.

fertilised with similar (or even different) ideas in pursuit of hybrid vigour. Or the soil of the garden may need to be prepared for some desirable plant by judicious cultivation of other species.

These activities are all analogous to various activities that the government (or other actors) may undertake out of concern for the character of the public culture. Examples include public funding of science or the arts; laws outlawing various sorts of denials of truths that a society affirms as foundational, such as the equality of citizens; or public educational campaigns designed to achieve some social policy goal, such as increased awareness of road safety or respect for minorities. While these policies may be controversial in liberal (especially libertarian) circles, such policies are in place and enjoy substantial public support in virtually all real existing liberal societies throughout the world. The marketplace of ideas metaphor can only justify these by abandoning the insistence that this market should be free and unfettered—a presumption which sits at the heart of its popular currency. It is an important advantage of the ‘garden of ideas’ metaphor, in comparison, that it provides an evocative way of thinking about the justification of such policies.

Relying on judgments as to which ideas are valuable and which are not, in order to determine how speech should be properly regulated, raises familiar liberal concerns about the dangers of authoritarianism or of the tyranny of the majority. But if the market metaphor is examined closely, it becomes clear that without intervention of some sort the marketplace of ideas

is likely to fail. The market for ideas fails to maximize truth, just as other more ordinary markets fail to maximize consumer satisfaction, even.<sup>16</sup>

The virtue of the garden metaphor is to highlight the relation between our assessments of when a forum for speech is operating effectively and our beliefs about which ideas will prosper in such a forum. Of course, merely alluding to this metaphor does not resolve the question of how we are to decide which ideas should be left alone to flourish and which should be treated as ‘weeds’ . It leaves unanswered the question as to who has the responsibility of ensuring that the garden of ideas is a productive one (who is the ‘gardener’ ?) or of the dangers of allowing the state (or indeed anyone) to adopt that role. These, however, are the hard questions which seem to us to lie at the centre of the debate about freedom of speech. It is better that they should be highlighted and problematised rather than obscured by a naïve faith in imaginary market mechanisms to solve them for us.

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<sup>16</sup> A useful discussion of the many possible causes of such market failure in the ‘marketplace of ideas’ may be found in Robert Weissberg, ‘The Real Marketplace of Ideas’ , Critical Review 10, No. 1 (Winter 1996), 107-121.