

The Business of Birth Control

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In 1960 the commercialization of the birth control pill heralded a social revolution and a financial bonanza. Socially, the implications were vibrant and well-recorded: the liberation of women, the freeing of traditional mores, the separation between procreation and its recreational forms. Financially, the effects were quieter but perhaps equally profound. Searle, the Chicago-based company that brought the pill to market after years of development and legal battles, watched its total sales rise 27% in the years immediately following the pill's release, to a total of \$56.6 million in 1962. By 1964, oral contraception was a \$40 million market in the United States alone, with millions of dollars in additional revenues predicted from overseas sales. The pill was the world's first nonessential block-buster drug, predecessor to today's prozac and viagra.¹

But the history of birth control does not start with the pill, and Searle was hardly the first company to profit from

contraception. More so than most, the business of birth control is driven, not by technological breakthrough or commercial innovation, but by the politics that allow innovation to reach the market. Contraception, in other words, does not become commercially feasible simply because demand and supply exist. It becomes feasible when social norms allow it, and when the ever-evolving moral dialogue about birth control shifts in favor of allowing such control.

The business of birth control is hardly ever a pretty one. For essentially, it is a business centered on a taboo; a business traditionally conducted under a cloak of both personal and commercial secrecy. Until the advent of the pill, indeed, the business of birth control was almost entirely clandestine, with "customers" rarely flaunting their purchases and sellers wary of trumpeting their wares. Yet it was nevertheless a business – a big business at times – and one that both affected and reflected

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the society in which it occurred. When birth control came out of the shadows, it indicated a general political preference for industry over agriculture; workers over mothers; and markets over morals. When it retreated, countervailing forces held sway, giving prominence in many cases to religious preference. Who made money in this industry, therefore, and when they were allowed to operate tells us quite a lot about the politics of commerce and the particular politics that surround the control of birth.

We can conceive of the birth control market as only initially under the influence of technological forces. At the outset, technology creates the potential for a particular product – be it Searle’s pill, rubber condoms, or plastic IUDs. What enables the technology to come to market, however, is the combination of moral and business influences that prevail at any particular time. In other words, technology in the birth control industry does not lead by itself to commerce. Instead, technology has to wait for conducive social norms; for a moral attitude willing to accept both the practice of contraception and its sale.

What makes the business of birth control particularly intriguing, however, is that business is not always a passive recipient of social norms. On the contrary, the historical record suggests that under some circumstances the purveyors of contraception can actually shift the social and political climate in which they operate. They can bring birth control out of the shadows, normalizing their industry as they grow their markets. Notably, it is not demand that grows during these periods, for the underlying demand for contraception appears to be both consistent and high.

Rather, it is the recognition and acceptability of demand that swings most vigorously over time, sometimes pulled back by moral opposition, sometimes widened by industry’s appeal.

At times, the power dynamic moves closer to the industry’s side. When the purveyors of contraception are concentrated and more organized; when their scale is larger and their profits commensurably higher, these businesses can enter the political arena with increased clout. They can argue more convincingly against the groups that try to restrict birth control, using a variety of arguments to bolster their claim to legitimacy. When they themselves are wealthy and well-connected, in other words, the suppliers of contraception can counter the taboo that surrounds them by pointing instead to the benefits of birth control – women’s rights, for instance, maternal health, or the economic benefits of smaller populations. Such arguments do not fare well when they are voiced by those that society already considers marginal. Small scale herbal peddlers, for instance, will have a hard time convincing any legislature to take their health claims seriously. And rural midwives are rarely positioned to take on authorities such as the Catholic Church. But companies like Searle can make convincing arguments about the benefits of contraception, and then back their claims with both science and a fair dose of political clout. Organized medical groups like the AMA are extraordinarily powerful in this regard: when doctors support contraception, both social and political authorities tend to listen. We see this dynamic in ancient Greece and then again in turn-of-the-century America. When midwives are replaced by physicians,

witches by apothecaries and “quacks” by diaphragm firms, then the moral and regulatory environment of birth control becomes far more accepting.

To be sure, the causality here is complicated. For when birth control is regarded as marginal, its purveyors by definition will be marginal as well. When norms are more open, by contrast, we should expect more commercial interest in the birth control industry and thus larger and more well-heeled firms. Yet the history of contraception clearly shows that commerce is not always on the receiving end of morality. Instead, business frequently shapes the boundaries of acceptability, helping to distinguish – in its own interest of course – the line between illicit and legitimate trade. Firms, as the historical record indicates, can define how “natural” birth control is; how medical and professional. Firms can determine who has access to contraception and under what conditions. Most importantly, firms can lobby the state to differentiate acceptable means of birth control from their more marginal competitors, and thus to create segments of the market that are relatively immune from either moral or political attack.

Both commercially and socially, the implications of this relationship are profound. For while morality tends to play a larger role in contraception than in nearly any other industry; and while technology frequently must wait in this industry for morality to come aboard, the business of birth control is still subject in the end to an underlying calculus of power politics and scale economies. When contraceptive firms are big enough, and concentrated enough, they can tilt the scales of morality in their favor. Searle, for example, can

sell birth control as a cure for Third World poverty; Merle Youngs (manufacturer of the Trojan brand) can sell condoms as protection for our troops. When firms are small and disparate, by contrast, they form easy prey for the legions of moral critics who are perpetually in wait. The story of the Pill, therefore, is not only a story of sexual freedom and technological advance. It is a story of business and power sculpting social norms; a story that occurs across the span of history, even in this most intimate of markets.

At the end of the 19th century, birth control existed in a legal and commercial limbo. Contraception (outside of Connecticut) was not illegal, but it was strictly and publicly frowned upon. The contraceptive industries were (again, with few exceptions) not illegal either, but small-scale merchants lived in constant shadow of the Comstock laws while larger and more presentable firms hid their contraceptive products at the back of their catalogues or under thinly-veiled disguises.² Women were strongly advised against any form of “unnatural” contraception, but most of them appear to have been practicing it. Finally, the medical establishment, newly empowered by the creation of the American Medical Association in 1847, was caught between its public and private roles. Privately, many doctors were prescribing birth control to their patients and some were actively engaged in the commercial market. Yet in public and in the aggregate, doctors were careful to separate themselves from the patent medicine salesmen and healers who remained outside the regulated confines of the AMA. So long as birth control was frowned upon; so long as it was peopled by questionable

entrepreneurs and backdoor dealings, the medical establishment wanted to stay far away. Thus as late as 1930, the *Journal of the American Medical Association* averred that, "We do not know of any method of preventing contraception that is absolutely dependable except total abstinence."³

Sister Suffragettes

In 1915 contraception remained taboo and the contraceptive trade was quiet. Within just a few years, however, a new crop of activists had advanced upon the public stage. Unlike Comstock and his purity crusaders, this group was passionately in favor of birth control, rooted in the working class, and untroubled by the advance of vice. They were less well-connected than the New York Society for the Suppression of Vice had been and arguably even more vocal. And nearly all of them were women.

One of the most prominent of this group was Emma Goldman, an anarchist leader who had studied nursing in prison. After her release, Goldman received more formal training and settled down to practice midwifery among New York's vast immigrant population. Ministering to these women, Goldman came face to face with the problem of unwanted children and the "continual dread" of conception. Increasingly convinced that birth control was a social necessity, Goldman began to introduce the issue of "sex problems" at anarchist events. She lectured, was arrested, and gradually won notoriety as one of America's most consistently radical voices: against big business, against big government, and in favor of complete sexual freedom. Along with Ben Reitman, a politi-

cally active doctor who became one of her many lovers, Goldman drew huge crowds to lectures that often included birth control as part of a political agenda. While the lectures themselves were not explicit, Goldman offered how-to pamphlets on contraception to anyone who approached her privately. Reitman helped also in this regard, using his medical training as an added source of information.⁴

The problem with the radicals, though, was that they were, well, so radical. For Goldman and Reitman, birth control was only part of a much bigger agenda that included free love, an end to marriage, and a complete redistribution of wealth. This was simply too much for most Americans to swallow in the 1910s, especially once the Bolshevik Revolution raised the very real spectre of socialism. So long as contraception was linked to Goldman and Reitman's brand of radicalism, therefore, and so long as the major purveyors of the trade resisted either organization or political action, it was doomed to remain on the margin of American society. And it did. Goldman was arrested again in 1916 and this time (as a Lithuanian immigrant) she was deported. Reitman slipped back into other forms of social work, eventually settling down to work on venereal disease control with the Chicago Department of Health.

The task of bringing contraception into mainstream debate thus fell upon the next wave of activists, a group that was epitomized and represented, led and bossed and managed, by Margaret Sanger, birth control's most prominent advocate.

This new wife and mother became deeply involved in the US labor movement. She helped to organize textile strikes in 1912 and 1913, and was arrested

twice along the way. It was during these strikes that Sanger had the epiphany that would soon obsess her. Charged with giving medical exams to the workers' children, Sanger was struck by their malnutrition and lack of medical care. She soon connected their poor conditions to other sad episodes of her nursing career, and particularly to the long lines of women she had seen on Manhattan's Lower East Side, waiting, as Sanger would frequently recount, "with shawls over their heads to see the five-dollar abortionist." Frustrated by her colleagues' refusal to consider family size as part of the workers' agenda, Sanger began to withdraw from labor and socialist circles, pledging herself instead to address gender relations.⁵

By 1913, Sanger had become a professional reformer. She separated from her husband and began to publish *The Woman Rebel*, a journal aimed at working-class women. Explicitly – and technically illegally – she used the publication to urge working women to seize control over their destiny, freeing themselves to "fight for the right to retain [their] own morality and psychology... the right to own and control [their] own bod[ies]." Some of this rhetoric, of course, came directly from the labor movement that Sanger had just abandoned. But she added birth control to the mix, proclaiming that, "It is none of Society's business what a woman shall do with her body unless she should inflict upon Society the consequences of her acts." In particular, what Sanger advocated was birth control controlled by women – not coitus interruptus, not condoms, not abstinence. Instead she wanted methods like IUDs and diaphragms; the mechanical methods, in other words, whose testing

and commercial development had been stifled by the Comstock laws.⁶

In publishing these suggestions, Sanger was herself flying in violation of Comstock. In August of 1914, she was indicted for mailing obscene material and fled to Europe before her trial. She left her US publications in the hands of family and friends and spent a year meeting with Europe's leading advocates of birth control, including Dr. Aletta Jacobs, the renowned Dutch physician who had opened the world's first birth control clinic. Jacobs firmly believed that a physician-fitted diaphragm was the best form of birth control and that, accordingly, the business of birth control should be ceded to and controlled by doctors. This was the view that Sanger took with her when she returned to the States, the prosecutor having ultimately refused to try the case.⁷

Although Sanger was undoubtedly still a rebel at this point, subtle social shifts had edged her closer to the mainstream. By the 1910s, young men and women had begun to socialize more intensely and to follow the advertising industry's advice to "relax, consume, and enjoy." Women were entering the workforce in greater numbers, taking white- and pink-collar jobs that put them in daily and often close contact with men. They were also, according to Kinsey surveys conducted several decades later, having a fair amount of sex: 36–39% of women born between 1900 and 1909 reported having sex before marriage.⁸

Thus, by the time Sanger came home, other groups – less radical, more accepted – were also starting to advocate for birth control. There was, for example, the National Birth Control League, launched in 1915 and dedicated to repeal of New York's

Comstock law, and the Voluntary Parenthood League, based in Washington, D.C. Members of the Progressive Party were focusing on related social issues – working conditions, welfare, health insurance – giving added credibility to the links between policy and social effect. Most importantly, perhaps, the problems of urbanization and industrialization were gaining wide attention, throwing attention on the population problem and the role it played in poverty.

Sanger, of course, had recognized this link for years, but it was acceptance by more mainstream groups that thrust this line of argument onto the broader political stage. By the 1920s, Sanger had decided that her best chance for success lay in an unlikely place. It lay, she reasoned, with the very group that had assiduously ignored birth control for nearly five decades; the very group that pledged to have no knowledge of any method outside of abstinence. It lay, in other words, with the American medical establishment.

In retrospect, this was a brilliant choice, especially when seen through the lens of commercial opportunity. What Sanger realized (inspired no doubt by Jacobs' success in Holland) was that birth control represented both a growing medical necessity and a vast potential market. This potential had been there, of course, since vulcanization created the prospects for large-scale condom production. It was evident in the booming sales of powders and syringes and douches. But these producers were still a relatively powerless lot, relegated to the sidelines by their social standing and chosen line of work. There was no group in turn-of-the-century America that had an inherent interest in the business of birth control; no group that were natural, com-

mercial, allies in the birth control movement. Sanger's genius was to realize that these allies could be created. One obvious possibility was the existing manufacturers, particularly as they started to gain both scale and profits. Another prospect – less obvious but more intriguing – was the medical establishment, a “professional” group that nevertheless harbored at least some commercial intent. If doctors could see birth control as part of their expertise – a medical function that they alone could perform – they might be willing, even eager, to build contraception into their practices. If contraception became important to their practice, they might be willing to support it politically. And if the doctors supported contraception, they would be impossible to ignore.

Throughout the 1920s, therefore, Sanger lobbied the New York legislature in support of “doctors only” bills that would give physicians the sole right to distribute birth control information and devices. Technically, she focused on diaphragms, arguably the most reliable method at the time, but also the one that required the most skill to prescribe. In effect, Sanger offered the medical establishment a seductive deal: a medical monopoly on contraception in exchange for political support. This arrangement essentially reversed the power dynamic that had held sway since the Middle Ages, when the emerging medical elite disdained contraception as criminal and left its practice to the midwives. It also offered the doctors a brand new market, one that, by definition, belonged only to them.

In October of 1916, Sanger opened the United States' first birth control clinic, located in the Brownsville section of Brook-

lyn. Staffed by Sanger and her sister, the clinic charged women ten cents for information on cervical caps, condoms, and other contraceptives. In the clinic's 10 days of operation, Sanger claimed that she fitted 488 women. After these 10 days however, police raided the clinic and shut it down, charging Sanger with violation of Section 1142 of the state penal code, prohibiting the dissemination of contraceptive information. This time, Sanger decided to fight rather than flee. She and her sister, Ethel Byrne, spent thirty well-publicized days in jail, with Byrne refusing to eat, drink, work, or wash. Sanger, who couldn't see her sister during this time, reported to the press that Byrne was near death. A public outcry ensued, and both women were released on appeal.

For the next two years, the case crept its way through New York courts, Sanger repeatedly basing her defense on the correlation between high fertility rates and female disease. The judge was not impressed, insisting that no woman had the right "to copulate with a feeling of security that there will be no resulting conception." On final appeal, however, Judge Frederick Crane made a small but hugely important concession. Referring to a little-known section of the state code that allowed doctors to prescribe contraception for the "cure and prevention of disease," he interpreted disease to include a dangerous pregnancy, meaning, in effect, that doctors could legally prescribe contraception for its "cure." So long as contraception occurred in the doctor's office, therefore, it was technically now legal.

Meanwhile, the long-dormant power of the condom industry was finally beginning to emerge. By the end of World War I, the

US military was reeling from the effects of venereal disease among its troops. Historically, commanders had dealt with this issue in a typically Victorian fashion, urging the men to rely on what Josephus Daniels, the fundamentalist Secretary of the Navy, referred to as "moral prophylaxis." As rates of infection rose, however, military leaders were forced to consider more concrete solutions. In June of 1917, for the first time, US soldiers were required to report to "prophylactic stations" – medical units that dispensed chemical treatment – within three hours of sexual conduct. And by 1920, many medical officers were openly advocating condom use to their enlisted men.⁹

Along with Judge Crane's decision, the military's newfound respect for protection created a windfall for the condom trade. In Baltimore, for example, the number of condoms sold between 1914 and 1928 more than doubled, increasing from 3 million a year to 6.25 million. "What before was merely a profitable business," wrote one observer, "now became a matter for large-scale production... [with] all of the paraphernalia of an enormous industry." Manufacturers such as Jules Schmid and Merle Youngs rushed to get their goods to market, selling condoms marked 'for the prevention of disease only' at drugstores across the country. They also began to market their wares far more aggressively and to differentiate their product on the basis on quality. Youngs, for example, sued an upstart competitor for infringing on his Trojan trademark. (He won.) Schmid supplied the US army during both world wars and brought cutting-edge German production techniques to US condom manufacture. Both men lobbied vigor-

ously for regulation of the condom industry, urging the US government to establish strict standards for reliability. Clearly, their concern here was not just for their customers' satisfaction. Since Schmid and Youngs were already operating at the highest end of the condom market, regulation (eventually imposed in the 1930s) gave them a major advantage over smaller, less technically proficient competitors. By 1938, according to an influential *Fortune* magazine article, condom sales in the United States had hit \$38 million a year, or more than double the \$15 million spent annually for shaving preparations.¹⁰

Trade in diaphragms and IUDs – the “female” methods that Sanger favored – also grew apace. And one of the leading manufacturers was Noah Slee, a wealthy oil executive whom Sanger had married in 1922. At the urging of his new wife, Slee had begun to import German-made diaphragms in 1923, smuggling them into the country in cartons used for his oil products. He also added contraceptive jelly to the list of products manufactured at his New Jersey plant and funded the start-up of the Holland-Rantos Company, the first contraceptive firm to sell its wares exclusively to medical professionals. At the same time, Sanger's associate, Dr. Dorothy Bocker, began to experiment systematically with various contraceptive regimes, collecting some of the first hard data on efficacy. In 1924, Bocker published a study of her patients' experiences, the first clinical evaluation of contraceptives published in the United States. Explicitly, *Birth Control Methods* criticized all over-the-counter contraceptives, claiming that condoms were especially bad – “devices break” – and drawing a sharp and rather arbitrary distinction

between over-the-counter and prescription contraceptives. Bocker saved her greatest praise for the Mensinga diaphragm, precisely the device that Noah Slee was sneaking into the country disguised as Three-in-One oil drums. Sanger, meanwhile, also joined forces with James Cooper, an eminent Boston gynecologist who – for a fee of \$10,000 a year – agreed to promote the Mensinga diaphragm among his colleagues. This is not to imply that Sanger was using her birth control clinic to fund her husband's business empire. On the contrary, all evidence suggests that Sanger was deeply committed to the birth control cause and only enjoyed profits insofar as they advanced her social goals. She was ingeniously separating “quackery” from medicine, condoms from diaphragms, in order to make birth control an acceptable aspect of standard medical practice. By legitimating the medical use of contraception, Sanger ensured both its commercial success and its social standing.¹¹

By the 1930's, Margaret Sanger's influence had made diaphragms and spermicidal jelly the most frequently prescribed form of birth control in the United States, with Holland-Rantos as the best-known manufacturer. Birth control clinics were flourishing businesses by this time and became even busier after 1937, when the case of *US v. One Package* essentially removed birth control from the Comstock laws. That same year, the American Medical Association formally recognized birth control as an integral aspect of medical practice.¹²

Something profound had happened, therefore, between 1873 and 1937. Contraception came out of the shadows both socially and commercially, joining the ranks of established, legitimate businesses.

Where the sellers of contraception had been marginal and furtive in the waning days of the nineteenth century, they were large and respectable by the 1930s and 40s; solid firms with decent earnings, backed by the prestige of professional medicine. Much of this commercial change, to be sure, was part of a broader social shift afoot at the turn of the century. Women were leaving the home and entering the workforce in greater numbers. They were having sex outside of marriage and bearing fewer children. In this regard, one might argue that changes in the business of birth control merely reflected the changing mores that surrounded the industry: as birth control became more acceptable, in other words, it also became more profitable. Yet such a description is only partially correct. Yes, birth control became more profitable as contraception became more acceptable, but contraception also became more acceptable as the purveyors of birth control became wealthier, more established and better organized. In 1873, Comstock and the YMCA were fighting only against small and scattered producers; against small-time entrepreneurs, for the most part, and the “patchwork quilt of outfits” that Tone described.⁹ By 1937, in contrast, crusaders against contraception were fighting against a well-heeled condom trade dominated by a handful of firms: against eminently respectable companies like Holland-Rantos; against Sanger’s legions of followers; and, most critically perhaps, against the august presence of the American Medical Association. The fight was no longer unbalanced. Instead, both moral and commercial pressures had shifted in favor of contraception, enabling the market to flourish and supply, at last, to match demand. By the end

of the 1930s, US contraceptive sales were \$250 million a year, “slightly bigger than the barbershop business and very slightly smaller than the jewelry business.”¹³

The Business of Birth Control

Over the next several decades, the contraceptive market settled into a stable and prosperous pattern. Doctors sold high-end diaphragms to wealthy patients, earning, according to one study from the 1930s, an average of between 75¢ and \$3.50 for every diaphragm prescribed. Mainstream stores like Woolworth’s scrambled into the expanding market for “feminine hygiene,” offering a vast array of powders, douches and creams. And although condoms only accounted for fifteen percent of total contraceptive sales in the United States, they were among the most profitable, accounting for nearly 30% of retail contraceptive sales and providing druggists with mark-ups that ranged from 300% to a staggering 1,820%.¹⁴

By the 1940s, the size of the US contraceptive market had made the surviving remnants of Comstockery impossible to uphold. Americans were obviously using birth control; they were buying it openly; and some among them had grown rich from the trade. With servicemen again exposed to venereal disease during World War II and regulatory agencies such as the Food and Drug Administration (FDA) gaining increased clout in the United States, the public clamor in the early post-war period was for regulation, rather than prohibition, of birth control; for information and investigation that made it easier

for couples to choose their preferred mode of contraception.

This state of affairs prevailed until 1960. And then Searle launched the pill that would change the world of birth control.

In scientific terms, the Pill's development really began in the 1920s, when researchers first identified estrogen and demonstrated its effects on pregnancy. Urged, once again, by Sanger, the scientific community realized that estrogen (together with progesterone) could potentially play a role in contraception. But because contraception itself was only barely emerging from the legal and moral sidelines, researchers had little interest in pushing their discoveries toward a more applied end.

Matters didn't change much until 1952, when Katherine McCormick, a wealthy and well-connected widow, decided to enter the game, directing all her funds toward the pursuit of an oral, "female" contraceptive. At Sanger's urging, she put her money behind a controversial geneticist named Gregory Goodwin Pincus, whose work on parthenogenic, or "test tube," rabbits had brought him both scorn and notoriety in the 1930s. Denied tenure at Harvard, Pincus established the Worcester Foundation for Experimental Biology in 1944, and settled down to work on other, less provocative research projects. His first love, however, was still reproduction, and when Sanger and McCormick approached him with funding, Pincus jumped at the opportunity to work on an oral contraceptive.

Between 1952 and her death in 1967, McCormick gave Pincus and his Foundation nearly \$2 million in research funding, a princely sum for a single, risky project.

Smaller and more restrictive funding also came from G.D. Searle, a small pharmaceutical company that had supported some of Pincus's other projects. Gingerly at first, and then with increased gusto, Searle embraced Pincus's agenda as its own. By 1955, when Pincus and a slowly growing circle of researchers had demonstrated that orally-administered hormones could indeed prevent ovulation, Searle realized the dramatic commercial promise. If the Pill (as it was already known) could truly prevent conception; if it could be taken, without ill effect, month after month, by any woman who wanted to forestall child bearing, then its market was nearly infinite. Gradually and quietly, Searle began to slip stories of Pincus's breakthrough into the mainstream media – *Time*, *Fortune*, *Ladies Home Journal*, and *Vogue*. All of the pieces extolled the medical miracle underway and subtly lauded Searle as the company at the forefront. The company delegated its public relations job to James Irwin, who was ambiguously titled the company's "corporate policy counselor." Irwin encouraged Pincus to speak publicly about the Pill and sent him on a worldwide promotional tour in 1959. Because direct advertising to consumers was prohibited by law, Searle also embarked on a careful publicity campaign for doctors, touching – with echoes of Sanger – on the ways in which the Pill promised to give doctors more regular contact with their female patients and more discretion in supervising their care.

At this stage, Searle still expected that any oral contraceptive would be greeted with scorn, and perhaps even hostility. Birth control had only been legal, after all, for a little more than twenty years, and the

pharmaceutical industry had been careful to steer completely away from the contraceptive market. As historian Lara Marks notes, however, “what is so remarkable about the opposition to the development of the oral contraceptive is how quickly it evaporated once it reached the market.” In 1957, the FDA approved Enovid, Searle’s first commercial birth control pill, as a treatment for “gynecological disorders.” By 1961, an estimated 408,000 American women were on the Pill; by 1963, the number had risen to 2.3 million. Reflecting the fact that not all of these women suffered from “disorders,” Searle returned to the FDA in 1959, applying for permission to market Enovid explicitly as a contraceptive. During this period, the company saw its revenues soar, rising from \$37 million in 1960 to \$89 million just five years later. Understandably, other companies began to clamor into the contraceptive space, particularly Syntex, a Mexican firm that licensed its own oral contraceptive to Parke-Davis and Johnson & Johnson. By 1967, seven US manufacturers were actively competing in the market for the Pill. With a stable 40% share, Searle had become one of the most profitable pharmaceutical businesses in the United States.¹⁵

In the process, Searle also converted contraception from a social taboo into a cultural icon. With the advent of the Pill, birth control became an enabling technology rather than a furtive hope; the symbol of women’s freedom from their physiology. Clearly, changing social norms account for much of this transition: the United States became a more liberal nation during the middle decades of the 20th century, one more open to changing gender roles and freer sexual mores. Yet, for present pur-

poses, the catalyst is less important than the coincidence. The technology of oral contraception – like the technology of contraception in general – predated by far its commercial application. Endocrinologists isolated estrogen in 1923; Pincus and other researchers were investigating chemical contraception in the 1930s. What enabled these technologies to come to market was the match between moral activists and market forces – between Sanger and McCormick’s desire to create an oral contraceptive and Searle’s financial interest in selling one. When set against the historical backdrop of contraception, Searle appears to have gotten off relatively easy. Its officers were never jailed for violating statutes that still prohibited non-medical contraception. Its image was never scarred by formal opposition from the Catholic Church. Instead, Searle was able to win its public relations battle from the outset, creating such a demand for the Pill that its opponents were forced silently to back down. Part of this demand, no doubt, came from the social changes mentioned above. Yet part was also due to Searle’s own efforts – to its careful release of information surrounding the Pill; its close and cultivated links with the doctors who would be prescribing the Pill; and its own existing reputation as a respectable, profitable, pharmaceutical firm. Searle, in other words, clearly responded to the shifting social norms that it faced in the 1950s and 1960s. But it also played a major role in shifting these norms itself, shaping and capitalizing on a long-latent demand. Because Searle was a major player from the start – a solid firm with standing in the community – it was able to enter the political debate with at least some measure of clout on its side. And because the

economics of the Pill were so irresistible, Searle was willing to expend the public resources that marketing the Pill demanded.

The story of the Pill, of course, continues. It became a major global commodity in subsequent decades, bolstered by the West's obsession with Third World population growth and by the commercial interests of contraceptive producers. Medically, the Pill came under increased scrutiny in the 1970s and 1980s, and was re-packaged and re-formulated as the years went on. Commercially, however, the essence of the Pill rests with the success it enjoyed in the 1960s – with the ability of this particular form of contraception to create a vast and profitable market that was finally removed from moral constraints. Other technologies had promised to do what the Pill perfected. Other technologies had become commercially successful and – when the profits were big enough and firms sufficiently powerful – created safe havens against the ever-present foes of contraception. But the Pill was the first contraceptive that began as a commercial enterprise; backed by McCormick, yes, but supported by Searle. It was this specific birthright that enabled the Pill not only to defeat its critics and win commercial success, but to become so successful that the critics were silenced before they began.

There are lessons here for other areas of reproductive technology. At the turn of the 21st century, contraception has become both an accepted social practice and a stable industry. With the exception of “morning after” methods such as RU-40, future contraceptive technologies (the patch, a male pill) will almost certainly be driven more by markets than by morality. In the broader field of reproduction, how-

ever, we are liable to see extended and impassioned fights, similar to those that surrounded the definition of witchcraft in the 15th century and the prosecution of vice in the 19th. Can an embryo created through in-vitro fertilization be brought to term if one of the parents protests? Can embryos be selected to produce a child whose bone marrow will then be “donated” to an existing child desperately in need of a transfer? Can eggs be harvested from aborted fetuses and transferred to infertile women? All of these possibilities are technically now feasible. All are commercially attractive. Yet all raise complex moral issues, which are bound to complicate and perhaps even eliminate the commercial prospects.

Currently, moral forces are in the ascendance, particularly in the United States. Stem cell research is severely restricted under federal law and the sale of reproductive “services” (including eggs, sperm, embryos and wombs) is frequently prohibited at the state level. If the pattern laid out by contraception holds true, however, then we should not expect this current array of forces to exist forever. On the contrary, as market players grow stronger – as they become more concentrated, equipped with larger scale economies, and armed with greater profits – they will begin to tackle their moral opponents and, most likely, to win. For in conception as in contraception, it appears, demand is ever-present. If technology can address that demand through the medium of the market, it will. 🦋

References

1. “New Drug Market Race” *Business Week*, March 28, 1964, 32.
2. The Comstock laws were written in 1873 by Anthony

- Comstock (1844-1915) and passed by Congress to prohibit obscene or pornographic materials from being sent through the mail.
3. For more on doctors' lack of information about contraceptives, see the discussion in Reed, *From Private Vice to Public Virtue*, 44–45. JAMA article quoted in Tone, *Devices and Desires*, 81.
 4. Emma Goldman, *Living My Life* (Salt Lake City 1982), 415–16. For more on Goldman's life and work, see Serena Falk, *Love, Anarchy and Emma Goldman* (New Brunswick, NJ, 1990).
 5. Reed, *From Private Vice to Public Virtue*, 77–81; Bernard Asbell, *The Pill: A Biography of the Drug that Changed the World* (New York 1995), 26.
 6. Fabian Hall Address, July 5, 1915, quoted in Reed, *Private Vice to Public Virtue*, 87.
 7. The Sangers' youngest child died of pneumonia during the trial and the judge, fearing an outburst of bad publicity, dropped all charges against her.
 8. Reed, *From Private Vice to Public Virtue*, 61. Between 1870 and 1900, the number of women working outside the home had increased from 1.8 million to 5.3 million. See C.T. Dienes, *Law, Politics and Birth Control* (Urbana, 1972), 76; Alfred Kinsey et. al., *Sexual Behavior in the Human Female* (Philadelphia, 1953), 300, 330–32.
 9. *People of New York v. Margaret Sanger*, 222 N.Y. 193, 118 N.E. 637 (1918), 26; Reed, *Private Vice to Public Virtue*, 107; Planned Parenthood Foundation of America, "Family Planning in America: Chronology of Major Events" (New York, 1992).
 10. Tone, p. 183-184 citing V.F. Calverton, *The Bankruptcy of Marriage* (New York, 1928); Tone, *Devices and Desires*, 108; "The Accident of Birth," *Fortune* (1938), 84.
 11. Anne Kennedy, "History of the Development of Contraceptive Materials in the United States," *American Medicine* (1935), 160; Dorothy Bocker, *Birth Control Methods* (New York, 1924).
 12. *O v. One Package of Japanese Pessaries*, 86 F. 2d 737 (2d Cir. 1936). In his decision, Judge Augustus Hand ruled that Congress had not intended "to prevent the importation [or] sale... of things which might intelligently be employed by conscientious and competent physicians for the purpose of life or promoting the well-being of their patients." *Planned Parenthood*, "Family Planning in America."
 13. "The Accident of Birth," 84.
 14. "The Accident of Birth," 85; Tone, *Devices and Desires*, 155.
 15. "Marks, *Sexual Chemistry*, 36; Asbell, *The Pill*, 168; Tone, *Devices and Desires*, 237–38.