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Crusade Against 'Big Meat' Is Latest Example of Misguided Effort to Use Antitrust as Anti-Inflation Tool
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[Alden Abbott]

As a new year dawns, the Biden administration remains fixated on illogical, counterproductive "big is bad" nostrums.

Noted economist and former Clinton Treasury Secretary Larry Summers correctly stressed recently that using antitrust to fight inflation represents "science denial," tweeting that:

In his extended Twitter thread, Summers notes that labor shortages are the primary cause of inflation over time and that lowering tariffs, paring back import restrictions (such as the Buy America Act), and reducing regulatory delays are vital to combat inflation.

Summers' points, of course, are right on the mark. Indeed, labor shortages, supply-chain issues, and a dramatic increase in regulatory burdens have been key to the dramatic run-up of prices during the Biden administration's first year. Reducing the weight of government on the private sector and thereby enhancing incentives for increased investment, labor participation, and supply are the appropriate weapons to slow price rises and incentivize economic growth.

More specifically, administration policies can be pinpointed as the cause, not the potential solution to, rapid price increases in specific sectors, particularly the oil and gas industry. As I recently commented, policies that disincentivize new energy production, and fail to lift excessive regulatory burdens, have been a key factor in sparking rises in gasoline prices. Administration claims that anticompetitive activity is behind these prices increases should be discounted. New Federal Trade Commission (FTC) investigations of oil and gas companies would waste resources and increase already large governmental burdens on those firms.

The administration, nevertheless, appears committed to using antitrust as an anti-inflationary "tool" against "big business" (or perhaps, really, as a symbolic hammer to shift blame to the private sector for rising prices). Recent pronouncements about combatting "big meat" are a case in point.

The New 'Big Meat' Crusade

Part of the administration's crusade against "big meat" involves providing direct government financial support for favored firms. A U.S. Department of Agriculture (USDA) plan to spend up to $1 billion to assist smaller meat processors is a subsidy that artificially favors one group of competitors. This misguided policy, which bears the scent of special-interest favoritism, wastes taxpayer dollars and distorts free-market outcomes. It will do nothing to cure supply and regulatory problems that affect rising meat prices. It will, however, misallocate resources.

The other key aspect of the big meat initiative smacks more of problematic, old-style, economics-free antitrust. It centers on: (1) threatening possible antitrust actions against four large meat processors based principally on their size and market share; and (2) initiating a planned rulemaking under the Packers and Stockyards Act. (That rulemaking was foreshadowed by language in the July 2021 Biden Administration Executive Order on Competition.)

The administration's apparent focus on the "dominance" of four large meatpacking firms (which have the temerity to collectively hold greater than 50% market shares in the hog, cattle, and chicken sectors) and the 120% jump in their gross profits since the pandemic began is troubling. It echoes the structuralist "big is bad" philosophy of the 1950s and 1960s. In and of itself, large market share is not, of course, an antitrust problem, nor are large gross profits. Rather, those metrics typically signal a particular firm's superior efficiency relative to the competition. (Gross profit "reflects the efficiency of a business in terms of making use of its labor, raw material and other supplies.") Antitrust investigations of firms merely because they are large would inefficiently bloat those companies' costs and discourage them from engaging in cost-reducing new capacity and production improvements. This would tend to raise, not lower, prices by major firms. It thus would *lower* consumer welfare, a result at odds with the guiding policy goal of antitrust, which is to *promote* consumer welfare.

The administration's announcement that the USDA "will also propose rules this year to strengthen enforcement of the Packers and Stockyards Act" is troublesome. That act, dating back to 1921, uses broad terms that extend beyond antitrust law (such as a prohibition on "giv[ing] any undue or unreasonable preference or advantage to any particular person") and threatens to penalize efficient conduct by individual competitors. "Ratcheting up" enforcement under this act also could undermine business efficiency and paradoxically raise, not lower, prices.

Obviously, the specifics of the forthcoming proposed rules have not yet been revealed. Nevertheless, the administration's "big is bad" approach to "big meat" strongly signals that one may expect rules to generate new costly and inefficient restrictions on meat-packer conduct. Such restrictions, of course, would be at odds with vibrant competition and consumer-welfare enhancement.

This is not to say, of course, that meat packing should be immune from antitrust attention. Such scrutiny, however, should not be transfixed by "big is bad" concerns. Rather, it should center on the core antitrust goal of combatting harmful business conduct that unreasonably restrains competition and reduces consumer welfare. A focus on ferreting out collusive agreements among meat processors, such as price-fixing schemes, should have pride of place. The U.S. Justice Department's already successful ongoing investigation into price fixing in the broiler-chicken industry is precisely the sort of antitrust initiative on which the administration should expend its scarce enforcement resources.

Conclusion

In sum, the Biden administration could do a lot of good in antitrust land if it would only set aside its nostalgic "big is bad" philosophy. It should return to the bipartisan enlightened understanding that antitrust is a consumer-welfare prescription that is based on sound and empirically based economics and is concerned with economically inefficient conduct that softens or destroys competition.

If it wants to stray beyond mere enforcement, the administration could turn its focus toward dismantling welfare-reducing anticompetitive federal regulatory schemes, rather than adding to private-sector regulatory burdens. For more about how to do this, we recommend that the administration consult a just-released Mercatus Center policy brief that Andrew Mercado and I co-authored.

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