

The Current Landscape of Competition and Consumer Protection Law and Policy (FTC Hearings, ICLE Comment 2)

October 14, 2018

[Dirk Auer](#), [Gus Hurwitz](#), [Geoffrey A. Manne](#), [Julian Morris](#) and [Kristian Stout](#)

Comments of the International Center for Law & Economics:

Despite the vast social benefits generated by companies operating in the digital economy, this economic transformation has stoked fears amongst members of the general public, the press, and policymakers. It has led to calls for interventionist policies such as heightened antitrust enforcement, sector-specific regulation, and direct intervention against industry concentration.

Unfortunately, there is insufficient evidence and, at best, ambivalent theory to support any of these proposed policies—and in the absence of a strong basis for adopting them, the proposed policies would do more harm than good. Among other things, economies of scale, economies of scope, network effects, and the like may bring about larger firms and more concentrated markets along with considerable consumer benefits. And new markets necessarily imply the consolidation of some firms and the exit of others, as competitors vie to come up with the winning paradigm.

Against the backdrop of this evolutionary process, it is critical that authorities avoid knee-jerk reactions that may impair the long-term welfare of consumers and firms alike.

To steer clear of these acute false positives, we urge policymakers to base their enforcement efforts on the tried and tested “law and economics” approach. This approach seeks to maximize consumer welfare and places a heavy emphasis on evidence-based scholarship. In doing so, it promotes innovation and minimizes the costs of policy errors.

Following this analytical framework will enable competition authorities to better address issues of exclusion and exploitation — as well as those of innovation and efficiency — in the digital economy.

[Read the full comments here.](#)

[View Article](#)