

This paper proceeds as follows. First, we examine the academic calls for stronger presumptions against vertical mergers based on, among other things, the alleged substitutability of contract for merger as a means of vertical integration, and the alleged equivalence of harms that arise from vertical and horizontal mergers. We analyze these claims on their own terms before proceeding in the next part to survey the economic literature that undermines the foundation of these arguments. We then proceed to analyze the critical differences between horizontal and vertical mergers that makes conflation of these two distinct methods of business combination impossible to truly treat as analytically equivalent. Next, we discuss the mistake of substituting static analysis for a more thorough dynamic analysis, particularly in industries marked by fluid product cycles and flexible business models.