

Background...

In antitrust law, the Consumer Welfare Standard (CWS) directs courts to focus on the effects that challenged business practices have on consumers, rather than on alleged harms to specific competitors. Critics of the standard claim this focus on consumer welfare fails to capture a wide variety of harmful conduct. In addition to believing that harm to competitors is itself a valid concern, critics of the CWS believe it leads to harmful concentrations of political and economic power by biasing antitrust enforcement against intervention. Under this view, the CWS contributes to such harms as environmental degradation, income inequality, and bargaining disparities for labor.

But...

Returning to a pre-CWS state of the law would lead antitrust enforcement to become confused, contradictory, and ineffective at promoting competition. [The CWS makes antitrust economically coherent and democratically accountable.](#)

However...

The CWS is agnostic about how much antitrust enforcement is necessary. Indeed, many advocates of more vigorous antitrust enforcement are also defenders of the CWS. The standard uses objective economic analysis to identify actual harms and to recommend remedies when those harms are not outweighed by countervailing benefits to consumers. While the issues the CWS critics care about may be important, antitrust law is a bad way to address them.

[Read the full explainer here.](#)