Scale and Antitrust: Where Is the Harm?

November 2023

tl;dr

Background: In the U.S. Justice Department's (DOJ) recent suit against Google and the Federal Trade Commission's (FTC) latest complaint against Amazon, both antitrust agencies allege these large technology firms behave anti-competitively by preventing their rivals from reaching the "scale" needed to compete effectively.

But... achieving scale or a large customer base does not, in itself, violate antitrust law. Private companies also owe no duty to allow their competitors to reach scale. For example, Google is not required to allow Bing to gain more users so that Bing's quality can improve. Google and Amazon's competition for users at the expense of competitors is central to the competitive process. To make an effective antitrust case, the agencies must delineate how Amazon and Google allegedly abuse their size in ways that harm competition and consumers.

KEY TAKEAWAYS

'SCALE' LACKS PRECISION IN ANTITRUST

Antitrust regulators often cite "scale" in recent complaints against large tech companies. Instead of throwing that particular term around loosely, the enforcement agencies should detail precisely how firms allegedly abuse scale to harm rivals.

Does scale unfairly raise barriers to entry? Does it impose costs on competitors? In both of the cases cited above, the alleged harm is the direct costs imposed on competitors, not the firm's scale. After all, scale can be just another way of describing the firm that produces the highest-quality product at the lowest price. Without greater clarity, enforcement agencies would be unable to substantiate antitrust claims centered on "scale."

To prevail in court, the agencies must articulate precise mechanisms of competitive injury from scale. Broad assertions about nebulous "scale advantages" are unlikely to demonstrate concrete anticompetitive effects.

SCALE ALONE IS NOT AN ANTITRUST HARM

It has long been recognized that simply "achieving scale" and becoming a large firm with significant market share or production capacity does not constitute an antitrust violation. No law prohibits a company from growing large through legal competitive means. The agencies know this. The FTC argues that its complaint against Amazon is "not for being big."

While scale can potentially be abused, it also confers significant consumer advantages. Basic economic principles demonstrate the benefits of size or scale, which may allow larger firms to reduce average costs and become more efficient. These cost savings can then be passed on to consumers through lower prices. Larger firms may also be able to make more substantial investments in innovation and product development. And network effects in technology platforms show how scale can improve service quality by attracting more users.

Scale only becomes an issue if it is leveraged to restrain trade unfairly or in ways that harm consumers. The restraint is the harm, not the scale.

PREVENTING SCALE IS NOT AN ANTITRUST HARM

Preventing a competitor from achieving greater size and scale is not inherently an antitrust violation either. Companies routinely take business from one another through price competition, product improvements, or other means that may limit rivals' growth. This is a normal part of market competition.

For example, if Amazon achieves sufficient scale that allows it to offer better prices or selection than smaller e-commerce websites, that may necessarily limit those competitors' scale. But this does not constitute an antitrust harm; it is, instead, simply vigorous competition. An antitrust violation requires the firm to take specific actions to restrain trade or artificially raise rivals' costs. Similar arguments hold for the DOJ's case against Google over the company paying to be the default search engine on various mobile devices.

Unless the agencies can demonstrate precisely how a company has abused its position to undermine rivals' scale unfairly—rather than winning business through competition on the merits—their complaints will struggle to establish antitrust liability.

COMPETITION INCREASES CONCENTRATION, WHICH MAY LOOK LIKE SCALE

Regulators often assume that large scale enables anticompetitive behavior to harm smaller rivals. Economic analysis, however, demonstrates that scale can benefit consumers and simultaneously increase concentration through competition.

Firms that achieve significant scale can leverage resulting efficiencies to reduce costs and prices. Scale enables investments in R&D, specialized assets, advertising, and other drivers of innovation and productive efficiency. By passing cost savings on to consumers, scaled firms often gain share at the expense of higher-cost producers.

As search and switching costs fall, consumers flock to the lowest-cost and highest-quality offerings. Competition redirects purchases toward scaled companies with superior productivity and lower prices stemming from economies of scale. This reallocates market share to efficient large firms, raising concentration.

Greater competition and the competitive advantages of scale are thus entirely consistent with increased concentration. Size alone does not imply anticompetitive behavior. Regulators should evaluate specific evidence of abuse, rather than assume that scale harms competition simply because it leads to concentration.

For more on this issue, see Brian Albrecht's posts "[Is Amazon's Scale a Harm?]" and "[Competition Increases Concentration]," both at Truth on the Market.

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