## The Daily Dish

# New Standards for Antitrust?

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***Eakinomics: New Standards for Antitrust?***

Today the U.S. Senate Commerce Committee takes up the nominations of Joe Simons, Noah Phillips, and Rohit Chopra to be Commissioners of the Federal Trade Commission (FTC). One topic that will inevitably come up will be competition policy/antitrust enforcement, which is fortuitous because there is growing chatter that big tech (Google, Amazon, Facebook, Apple, Netflix, etc.) and other large companies should be broken up, and broken up simply because of their size.

Evidently this is quite appealing to some. (See AAF's Will Rinehart's discussion of legislation exemplifying this notion here.) However, focusing on size *per se* is a fundamental attack on the core principles of antitrust policy that have served the United States well. Since the 1970s, antitrust has been guided by the "consumer welfare standard" — the notion that antitrust policy should maximize the consumer surplus generated in market activity. This single standard generates a desirable consistency in decision-making that is not possible in a system with multiple criteria.

For example, if the standard were "consumer welfare and capping the size of the largest firm," then some mergers that would raise consumer welfare would be disallowed because the resulting firms would be too large. But the current standard ensures that mergers are allowed when they benefit consumers. It could be the case that a merger increases market competition, and as a result raises consumer welfare. If so, the merger should pass muster. But if increased concentration is detrimental to the well-being of consumers, the current standard gives a clear answer: no.

There is simply no reason to change the standards for antitrust policy. However, that is not the same thing as saying that enforcement is up to snuff. As American Antitrust Institute President Diana Moss, a sharp critic, recently noted in Bloomberg, it is "lack of vigorous

enforcement," not a poorly written law, that caused industries to become concentrated.