Press Release

Meta Case Highlights the Diverging Approach to Antitrust Enforcement

PAULINA ENCK | AUGUST 16, 2022

The Federal Trade Commission (FTC) recently challenged Meta's acquisition of a virtual reality (VR) developer primarily on the grounds that it would substantially lessen competition in the dedicated VR fitness app market. In a new insight, Director of Technology and Innovation Policy Jeffrey Westling discusses how the FTC's case departs significantly from traditional antitrust standards and why lawmakers must keep careful oversight of the agency when it goes beyond its congressionally granted authority.

Key points:

- The FTC's case is the latest example of the agency's New Brandeis approach to antitrust policy, which is concerned with firm size in isolation, rather than simply the welfare of consumers, regardless of the competitive effects of a merger.
- The FTC's case also largely ignores substitutable products when defining the VR fitness app market (defining the relevant market is a critical task for the agency when adjudicating such antitrust cases), as well as the competitive effects of banning companies attempting to gain access to a new market through the acquisition of another company.
- As Congress contemplates changes to competition policy, it must carefully consider how regulators may attempt to stretch their granted authority to pursue objectives beyond the welfare of consumers.

Read the analysis