Why the Consumer Welfare Standard Should Remain the Bedrock of Antitrust Policy

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There is no legitimate case for abandoning a 40-year-old consensus on how to apply antitrust policy in favor of a vague, hard-to-enforce alternative that represents an amalgam of conflicting goals, some of which would work against economic progress and the national interest.

The application of antitrust policy, through which the government seeks to shape the general rules of competition, has always been contentious. But for roughly 40 years there has been a consensus that its ultimate goal should be the welfare of consumers, broadly defined to mean maximizing overall economic growth. Yet a small, but growing group of activists and scholars now argues we should abandon the consumer welfare standard and add in a host of new factors for antitrust policy to address, while also attacking “bigness” per se.

These activists and scholars believe that focusing on consumers overlooks other values, including vibrant small businesses, innovation, privacy, worker interests, and healthy democratic processes. For them, large companies by their very nature pose a unique danger to the economy and help form a kind of society they reject. The consumer welfare standard stands in the way of using antitrust policy to limit the size of large firms.

A careful review, however, shows the consumer welfare standard is able to handle some of its critics’ legitimate concerns. In some of the areas where it cannot, other policy tools (e.g., privacy policy, campaign finance reform, etc.) are more appropriate remedies. But in other areas, pursuing their goals—including protecting businesses, especially small firms, against legitimate competition, and avoiding layoffs—would reduce consumer welfare and economic growth. In short, there is no legitimate case
for abandoning the consumer welfare standard in favor of a vague and hard-to-enforce alternative that represents an amalgam of conflicting goals, some of which would work against progress and the national interest.