



**United States of America  
Federal Trade Commission**

**Hunting the Chipmunk:  
Finding Out What We Don't Know  
About Platform Competition**

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Remarks at the University of Florida Digital Markets Initiative's  
"Hot Topics in Platform Competition" Videoconference

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Good morning. I am delighted to provide some brief thoughts about this discussion of “Hot Topics in Platform Competition.” Thanks to the University of Florida – my undergraduate alma mater – and Danny Sokol for inviting me to participate.

Allow me to offer the standard disclaimer: The views I express today are my own, and do not necessarily reflect the views of the Federal Trade Commission or any other Commissioner.

In my role at the FTC, I have spent a great deal of time thinking about Big Tech and platforms. Like many of you, I have participated in countless programs on this topic. The FTC’s hearings on Competition and Consumer Protection in the 21st Century addressed it, as have Congressional hearings.<sup>1</sup> And this dialogue is global — conversations with my counterparts abroad inevitably turn to this topic. To be clear, this subject is worthy of debate and analysis. Platforms play a key role in many aspects of our lives, particularly during the Covid-19 pandemic, when big segments of our professional and personal lives have moved online.

Establishing sound enforcement approaches with respect to platforms is vital to preserving the benefits of competition and incentives to innovate. But we cannot formulate sound enforcement policy in a vacuum, and that is why today’s program is both important and different from others that we have attended on this topic.

The goal of today’s program is to expand our horizons. As antitrust practitioners, there are topics relevant to platform competition that we know, like network effects and multi-sided

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<sup>1</sup> *FTC Hearing #3: Multi-Sided Platforms, Labor Markets, and Potential Competition*, George Mason University, October 15-17, 2018; *FTC Hearing #6: Privacy, Big Data, and Competition*, American University, November 6-8, 2018; U.S. House of Representatives Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law, *Online Platforms and Market Power, Part 1: The Free and Diverse Press*, June 11, 2019; *Part 2: Innovation and Entrepreneurship*, July 16, 2019; *Part 3: The Role of Data and Privacy in Competition*, October 18, 2019; *Part 4: Perspectives of the Antitrust Agencies*, November 13, 2019; *Part 5: Competitors in the Digital Economy*, January 17, 2020; *Part 6: Examining the Dominance of Amazon, Facebook, Google, and Apple*, July 27, 2020.

markets. There are topics we know about but may not fully understand – like quantum computing and artificial intelligence. And there are topics of which we're not even aware, though they might be relevant to our analysis of platform competition. I can't give you examples, because by definition this category covers things that we don't know that we don't know.

An intentional decision to broaden our horizons can be highly instructive but simultaneously painful. Several years ago, as a Christmas present, my husband gave me two spots in a weeklong class on survival skills and primitive living in the Utah wilderness. The packing list was short: one change of clothes, a knife, a wool blanket, a canteen, and water purifying tablets. No tent, no phone, no flashlight, no matches. While the days were sweltering, the nights were near freezing. We built shelters out of fallen tree limbs and created bedding from pine needles. I learned how to start a fire without matches, how to trap small animals, and how to skin what we trapped. For the record, yes, I skinned a chipmunk; yes, my husband ate it; and yes, it tasted like chicken.

Friends and colleagues questioned our sanity in pursuing this adventure. I explained my rationale as follows. Civilization is built on the division of labor, which allows us to focus on our comparative advantages. For a society, the division of labor is efficient. But for individuals, the division of labor requires us to specialize. I was equipped to practice antitrust law and do little else. I wanted to understand more about how to provide my own shelter, hydration, food, clothing, and tools. In other words, I wanted to expand my horizons – and boy, did I.

In a slightly less colorful way, that is our task today. Danny wants us to step outside our silos and broaden our horizons professionally. We won't be asked to trap and skin small animals, but we will be asked to consider what other bodies of learning are relevant to our roles as antitrust enforcers, policy makers, and counselors.

During my career, I have learned from a man who epitomizes this mindset. For years, I practiced law with Tim Muris in both the public and private sector – at Collier, Shannon, Rill & Scott as an associate, at the FTC as his Chief of Staff when he was Chairman, and at two subsequent law firms as his partner. Many of you know Tim as a pillar of the antitrust bar, but he also served at the Office of Management and Budget and worked on presidential campaigns and transitions. He thinks more holistically about what we do than anyone else I know. He looks at antitrust through a lens of business and politics, as well as law and industrial organization economics. This wide-angle lens allows him to connect seemingly unrelated dots and predict trends and outcomes better than any other practitioner I know.

Tim’s holistic approach was a natural fit with the FTC, which has a mandate from Congress to pursue a path of continuing education. Section 6(b) of the FTC Act empowers the agency to require an entity to file “reports or answers in writing to specific questions” about its organization, management, and practices. So the FTC can conduct wide-ranging studies that do not have a specific law enforcement purpose. As announced in February, we are using the 6(b) tool to examine past acquisitions by Alphabet, Amazon, Apple, Facebook and Microsoft that were not reported to the antitrust agencies under the Hart-Scott-Rodino Act.<sup>2</sup> The FTC will use this information to evaluate trends in tech acquisitions and make policy adjustments accordingly.

In my statement supporting this study, I encouraged the Commission to consider similar studies across other industries.<sup>3</sup> I also called on the Commission to engage in 6(b) studies of the

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<sup>2</sup> Press Release, *FTC to Examine Past Acquisitions by Large Technology Companies*, February 11, 2020, <https://www.ftc.gov/news-events/press-releases/2020/02/ftc-examine-past-acquisitions-large-technology-companies>.

<sup>3</sup> Statement of Commissioner Christine S. Wilson, Joined by Commissioner Rohit Chopra, Concerning Non-Reportable Hart-Scott-Rodino Act Filing 6(b) Orders, February 11, 2020, [https://www.ftc.gov/system/files/documents/reports/6b-orders-file-special-reports-technology-platform-companies/statement\\_by\\_commissioners\\_wilson\\_and\\_chopra\\_re\\_hsr\\_6b\\_0.pdf](https://www.ftc.gov/system/files/documents/reports/6b-orders-file-special-reports-technology-platform-companies/statement_by_commissioners_wilson_and_chopra_re_hsr_6b_0.pdf).

practices of technology companies, including social media platforms – their algorithms, content curation, targeted advertising, data collection, use, sharing and monetization. One of my Democratic colleagues, Commissioner Rohit Chopra, joined this statement.

In turn, I agree with Commissioner Chopra that the FTC’s path forward in digital markets must be “grounded in reality,” and that we should approach “policy and enforcement with rigorous, quantitative understanding of how these markets actually work.”<sup>4</sup> That is, I insist on evidence-based enforcement, which I distinguish from a “rules-based approach” in which a vast array of business practices, far beyond price-fixing, bid-rigging and market allocation, would be made per se illegal.<sup>5</sup>

The Commission has long used workshops and other events to bring the wisdom of people outside the FTC into the agency. I mentioned the FTC’s recent series of hearings, but our initiatives to gather information are perpetual. Those of you who practice before the agency are familiar with its workshops, industry and issue studies, and reports. It is one of the aspects of the FTC that makes it unique — and one that I find most impressive. For those of you less familiar with the agency, please note that our Bureau of Economics has an academic seminar series and

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<sup>4</sup> Written Testimony of FTC Commissioner Rohit Chopra Before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Antitrust, Commercial, and Administrative Law, *Hearing on Online Platforms and Market Power, Part 3: The Role of Data and Privacy in Competition*, October 18, 2019, available at [https://www.ftc.gov/system/files/documents/public\\_statements/1549812/chopra\\_-\\_testimony\\_at\\_hearing\\_on\\_online\\_platforms\\_and\\_market\\_power\\_part\\_3\\_10-18-19.pdf](https://www.ftc.gov/system/files/documents/public_statements/1549812/chopra_-_testimony_at_hearing_on_online_platforms_and_market_power_part_3_10-18-19.pdf).

<sup>5</sup> See, e.g., Open Markets Institute, Letter to the U.S. House of Representatives Subcommittee on Antitrust, Commercial and Administrative Law, April 17, 2020 (“The Open Markets Institute has repeatedly made clear that the easiest way to remove complexity from the law and to streamline cases is to adopt Bright Line rules for structuring markets and limiting corporate behaviors. Such Bright Line rules were standard in U.S. anti-monopoly law and enforcement from the founding until the early 1980s.”).

an annual microeconomics conference.<sup>6</sup> I welcome you to submit papers and become more engaged with the antitrust community.

Having been mentored by Tim for so long, I am perhaps more keen than the average bear to understand what other areas of study have to say about what we're doing. Few of us connect the dots across disciplines as well as Tim does, but it's important to try.

For example, an article on vertical mergers that I co-wrote with Danny, Roger Blair and two of my advisors at the FTC draws from other bodies of literature to gain insights about rationales for vertical mergers.<sup>7</sup> We cite scholars published in business management journals who describe how vertical integration through merger rather than contract can reduce transaction costs, minimize asymmetric risks from incomplete contracts and limit opportunities for holdup during contract negotiations.<sup>8</sup> From the business management perspective, the authors of these articles are concerned with supply chains. They say transaction cost economics is “one of the most cited and applied organization theories in operations and supply chain management research”<sup>9</sup> – though it does not seem to receive that level of attention among most antitrust specialists.<sup>10</sup>

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<sup>6</sup> For more information, see <https://www.ftc.gov/about-ftc/bureaus-offices/bureau-economics/conferences-seminars/bureau-economics-seminar-series> and <https://www.ftc.gov/news-events/events-calendar/thirteenth-annual-federal-trade-commission-microeconomics-conference>.

<sup>7</sup> Roger D. Blair, Christine S. Wilson, D. Daniel Sokol, Jeremy Sandford and Keith Klovers, *Vertical Mergers, Economic Effects, and Legal Presumptions*, July 2020 [article forthcoming in GEORGE MASON LAW REVIEW].

<sup>8</sup> Andy A. Tsay et al., *A review of production and operations management research on outsourcing in supply chains: Implications for the theory of the firm*, 27 PROD. OPER. MANAG. 1177, 1179-80 (2018); René Aïd, et al., *Hedging and vertical integration in electricity markets*, 57 MGMT. SCI. 1438 (2011) (reduction of asymmetric risk).

<sup>9</sup> Mikko Ketokivi & Joseph T. Mahoney, *Transaction Cost Economics as a Theory of Supply Chain Efficiency*, 29 PROD. & OPER. MGMT. 1011, 1011 (2020).

<sup>10</sup> For some notable exceptions, see Howard A. Shelanski & Peter G. Klein, *Empirical Research in Transaction Cost Economics: A Review and Assessment*, 11 J. L. ECON. & ORG. 335 (1995); Alan J. Meese, *Robert Bork's Forgotten Role in the Transaction Cost Revolution*, 79 ANTITRUST L.J. 953 (2014) (providing an overview); Francine Lafontaine & Margaret Slade, *Vertical Integration and Firm Boundaries: The Evidence*, 45 J. ECON. LIT. 629, 649 (2007) (summarizing literature on transaction costs models); Lafontaine & Slade, *Franchising and Exclusive Distribution: Adaptation and Antitrust*, in II OXFORD HANDBOOK OF INTERNATIONAL ANTITRUST ECONOMICS (Roger D. Blair & D. Daniel Sokol, eds. 2014).

Our article identifies eight important lessons for vertical merger analysis that can be gleaned from the business management literature. Time is short, so I commend to you the full article in a forthcoming issue of the *George Mason Law Review*. The important point is that these insights are coming from outside what's traditionally considered the antitrust community. By thinking holistically, we can more accurately analyze both the benefits and costs of vertical mergers.

The vital contributions of the FTC's economists to the agency's law enforcement function prevent them from spending all of their time on research. And we mostly hire IO specialists, so other relevant bodies of research might fall outside our economists' typical areas of study. Recognizing the need for additional perspectives, the new Technology Enforcement Division has hired technologists.<sup>11</sup> Filling in research gaps is especially crucial in an area like platform policy, as policymakers, advocates, and enforcers analyze everything from what constitutes a "platform" to who benefits from them.

The global debate about platform competition is too important to address while wearing blinders that limit the range of information we can see. Indeed, the importance of this topic increases our need for information about: the costs and benefits to consumers and firms of advertising; how pricing works across various sides of a platform; the role of and strategies for complementors in a platform ecosystem; self-preferencing on the platform; platform governance in terms of interconnection and portability; the design of business-to-business platforms;

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<sup>11</sup> Questions for the Record from the Honorable David N. Cicilline, Chairman, Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, for the Honorable Joseph Simons, Chairman, Federal Trade Commission, <https://www.congress.gov/116/meeting/house/110201/documents/HHRG-116-JU05-20191113-SD010.pdf> ("TED has two technologists on staff: one started work in January 2020, and the other will start in early February 2020. Both are dedicated to the work of the Division.").

artificial intelligence and platform strategy; the role of intellectual property in platform ecosystems; the interface of competition and digital privacy; and a host of other issues.

I am certain that other ideas for research will be generated today by the panel and the breakout sessions. Practitioners can learn what the academics are working on that might be useful to their practice; the academics can find out what knowledge gaps exist in the antitrust community and seek to fill those gaps.

Even conduct that is well-established as per se illegal, like price fixing and market allocation, can be more effectively addressed with a better understanding of how it might be enabled by technology.<sup>12</sup> And even where a topic is not original or unique, related research is still valuable. Online platforms are new enough – even when the underlying business is well-established – that basic questions deserve continued exploration. One of Danny’s colleagues recently published an article in the American Marketing Association’s journal that evaluates the benefits to both consumers and performers of integrating primary and resale platforms in the event-ticketing industry. The article argued that competition between resale platforms may harm consumers.<sup>13</sup> This kind of conclusion might be counter-intuitive in the antitrust community, which demonstrates the value of hearing outside perspectives. As we pursue sound enforcement in the platform space, cooperation across disciplines will be key.

As I close, I’ll offer one final thought about my experience in the Utah wilderness. When I returned to the office, many people were curious about my horizon-broadening experience. I replied, not entirely joking, that perhaps I didn’t need my horizons expanded quite so much. But

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<sup>12</sup> See, e.g., Jeanine Miklós-Thal and Catherine Tucker, *Collusion by Algorithm: Does Better Demand Prediction Facilitate Coordination Between Sellers?* 65 MGMT. SCI. 1552 (2019).

<sup>13</sup> Tianxin Zou and Baojun Jiang, *Integration of Primary and Resale Platforms*, JOURNAL OF MARKETING RESEARCH, May 4, 2020, <https://doi.org/10.1177/0022243720917352>.



years later, I reflect on that week with pride. Through the challenges and deprivation, I discovered deep reserves of resourcefulness and resilience within myself. It is my hope that today's session will similarly prompt us to take up challenges that will expand our horizons and, years from now, leave us better informed and glad that we embarked on this journey.