
Wait A Minute – I’m Not Like Google (Am I?)

Why your health care enterprise should care about federal inquiries into monopoly technology firms.

Congress recently held its first hearing on the question of whether the country’s tech giants – Amazon, Apple, Google, and Facebook – are stifling competition to the detriment of consumers. The question has become a surprisingly bipartisan political topic, as public confidence in these mega-companies continues to fall. And it accordingly has become a recurrent point of commentary from 2020 Presidential candidates (including the incumbent).

To be sure, there is no clear path to resolving the underlying consumer welfare concerns. Breaking up these companies is often discussed – but the benefits of breakups for consumers is questionable. (Would requiring Facebook to divest Instagram actually make Facebook a more competitive company?) That being the case, the policy debate also has embraced the question of changing the standards for enforcement of the antitrust laws.

And that’s why this debate may matter to health care organizations.

For the last forty years, antitrust policy has moved away from the politically-progressive early premises of the Sherman Act – often characterized as the “big is bad” school of antitrust law – toward the Chicago School’s unitary focus on price effects (i.e., will this merger/acquisition/conduct likely harm consumers by raising prices?). Some argue that the Chicago School’s influence has inhibited the law’s ability to constrain modern-day exercises of market power and pushed antitrust enforcement down a path of non-intervention in structurally concentrated markets.

Of course, many health care providers in fact operate in structurally concentrated markets, which raises the question of what would a return to a more progressive antitrust enforcement agenda look like in health care?

In my latest article, ***Thinking Big: Market Power in Consolidating Health Care Markets***, I discuss the current debate surrounding the conduct of dominant firms, historical views of that controversy from the health care perspective, and trends in recent case law examining the exercise of market power by health care organizations.

[Read *Thinking Big: Market Power in Consolidating Health Care Markets*, here.](#)