

Axinn Associates at the Antitrust Spring Meeting

Has Competition in the U.S. Been Declining?

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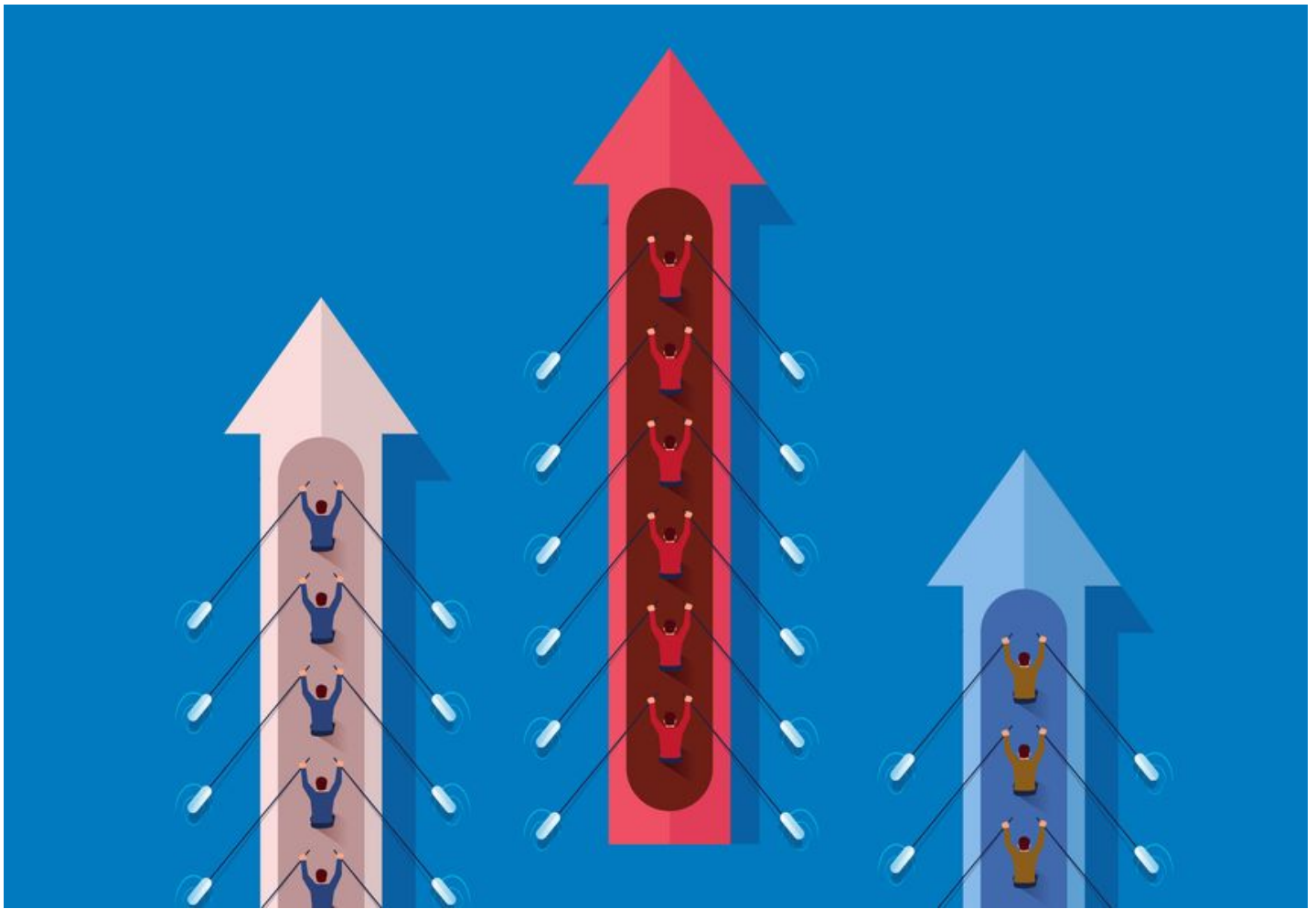
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The Spring Meeting is the largest gathering of competition, consumer protection, and data privacy professionals globally, with lawyers, academics, economists, enforcers, journalists, and students from around the world. During the Spring Meeting, Axinn associates attended thought leadership panels to capture key insights. Below are the top takeaways from the “Has Competition in the US Been Declining?” panel that antitrust lawyers should keep on their radar.

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Axinn partner Craig Minerva chaired and moderated the panel “Has Competition in the US Been Declining?” featuring leading academics and economists. While the panelists offered varying perspectives, there was consensus around a core point – that there is no evidence of a widespread decline in competition across US markets. At the same time, there are particular markets, or even industries, for which economic evidence does indicate a decline in competition. One thing that the panel agreed on is that antitrust enforcement is not a standalone solution to every economic problem.

- **A look back at concentration levels.** A historical analysis of U.S. stock market data for the top 100 publicly traded firms finds that shares of the largest firm have grown significantly from 6.0% in 1993 to 9.8% in 2023 and the combined shares of the top 10 firms have grown from 33.9% in 1993 to 45.6% in 2023. Further, industry diversification among the top firms has decreased. In 1993 and 2003, the top 5 firms included companies in the energy, retail/consumer packaged goods, healthcare, finance, and technology sectors. In 2023, and today, all 5 top firms are technology companies. Accordingly, these trends and increase in concentration in the top companies may or may not be causing a decline in competition overall.
- **Concentration across broad sector categories is not a good measure of competition.** The empirical evidence relating to concentration trends, markup trends, and the effects of mergers does not actually show a widespread decline in competition. To the contrary, in many respects the evidence indicates that the changes observed in a number of industries are likely to reflect competition in action. It is important to analyze competition on a market-by-market basis and avoid the use of overly broad categories and regions that can mislead conclusions on market concentration.
- **Both markups and “markdowns” can be anticompetitive.** Some empirical evidence indicates that markups *and labor markdowns* have increased in U.S. markets since 2000. Labor markdowns represent the discount that an employer pays for labor below the value it receives for that labor. Reasons for increased markups may include changes in technology, product differentiation, increasing barriers to entry, and reductions in cost. Increased labor markdowns suggest an increased ability by employers to pay workers below their productivity and contribute to increasing measured markups. To the extent that markups and labor markdowns stem from anticompetitive exercises of market power, antitrust enforcement can help to reduce the anticompetitive effects. But an assessment must be done on a market-by-market basis to determine whether a competition problem exists, and if so, whether antitrust enforcement is an appropriate tool to help improve the problem.



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