Is It Pro-Competition to Make Amazon and Google Less Consumer-Friendly?

The Biden administration's antitrust cases against Google and Amazon both involve remedies that would help competitors by making Google's and Amazon's services less convenient for consumers to use. The antitrust agencies seem to believe that is the only way competitors can develop sufficient scale to succeed.

BY THOMAS LENARD

Amazon's MFN provision / The Federal Trade Commission's Amazon complaint at least recognizes that low prices are good for consumers. In contrast, FTC chair Lina Khan's famed 2017 Yale Law Journal article focuses on the effect of Amazon's low prices on its competitors and seems almost unaware that they benefit consumers. The complaint's recognition of the benefits of low prices is a step forward.

But consumers aren't just concerned about the list price of an item; they are concerned about the all-in price, which includes transactions costs. The FTC's case against Amazon is essentially about transactions costs. Amazon has adopted a business model that reduces transactions costs to consumers. This model also benefits Amazon, which presumably is why Amazon adopted it. But the FTC alleges that these practices are anticompetitive and would like to do away with them.

> The FTC notes:
> By providing sellers access to significant shopper traffic, Amazon is able to attract more sellers onto its platform. Those sellers' selection and variety of products, in turn, attract additional shoppers. More shoppers yield more customer-generated product ratings, reviews, and valuable consumer data for Amazon to use. All of this enables Amazon to benefit from the accelerated growth and momentum that network effects and scale economies can fuel.

If this weren't in the FTC's complaint, one would think it was part of Amazon's defense because it sounds pretty good for consumers—but the FTC doesn't think so.

The FTC believes that "Amazon uses a set of anti-discounting tactics to prevent rivals from growing by offering lower prices, and it uses coercive tactics involving its order fulfillment service to prevent rivals from gaining the scale they need to meaningfully compete." This at least sounds like a complaint rather than a defense. But let's take a look at how consumers would fare in the absence of those practices.

The anti-discounting tactic refers to Amazon's policy that sellers not charge a higher price on Amazon than they do on other platforms. The antitrust concern is that such "most favored nation" (MFN) provisions could facilitate collusion and higher prices. Whether they do so in this case is a proposition the FTC needs to prove and, if so, that the costs outweigh the benefits—notably, lower search costs for consumers. Amazon's MFN provision assures shoppers that the same product is not available at a lower price elsewhere. In the alternative, shopping online for even simple products could be a time-consuming process. Moreover, some consumers might use Amazon to gather product information and then go elsewhere to complete the purchase, which would diminish Amazon's incentive to invest in improving the platform.

With respect to the second allegation, Amazon requires sellers to use Amazon's fulfillment service—which includes inventory storage, packing, delivery, and processing of returns—to be eligible for the popular Amazon Prime service, which comes with fast, mostly free, shipping. The FTC thinks the fulfillment requirement is also anticompetitive, but consider the alternative: Customers would likely confront multiple fulfillment operations with varying reliability, delivery times, and return policies. Amazon would incur costs policing those operations to assure they satisfy Amazon's service commitments—costs that would be passed onto consumers. By the way, none of Amazon's policies prevent retailers from selling on their own or other platforms or using their own fulfillment services, and many do. But those alternatives are too costly for many retailers.

Google's pre-install contracts / The Department of Justice's case against Google also hinges largely on transactions costs. The government claims that Google's 90 percent share of general search is due to its contract with Apple to be the default pre-installed search engine on Apple devices and similar arrangements with other distribution channels. Because of these arrangements, competitors—most prominently, Microsoft's Bing, which has only a 3 percent share—can't achieve sufficient scale to succeed.

These arrangements are the central issue in the Google case, and their importance depends on switching costs. Google claims it is easy to switch to a different search engine like Bing, and the reason most users don't use it is because Google is the superior product. But if switching is easy, why does Google pay Apple so much money to be the default?

On the other hand, if switching is as difficult as the Justice Department claims, the argument for preinstalling the search engine that most consumers prefer—generally agreed to be Google—is strong. Otherwise, consumers would incur substantial costs switching to their preferred product. Even if installing a search engine is relatively simple, most consumers would probably prefer a phone with the search engine they want right out of the box.

The antitrust agencies should take care their policies do not discourage more user-friendly business models that might make it more difficult for competitors to attract customers and achieve scale. That is not the way to promote competition or benefit consumers.