

From: Tim Brennan

To: Competition Policy Watchers

Date: June 8, 2020

Re: **COULD COVID-19 JUSTIFY COMPETITOR COOPERATION?**

As nations around the world try to cope with COVID-19, one hears calls to encourage cooperation among manufacturers and suppliers that normally compete with another.

Cooperation, of course, is good if not necessary in so many aspects of our reaction to this disease, for example, in wearing masks and maintaining social distance to protect healthcare workers and prevent overtaxing hospitals.

However, a broader call to substitute cooperation for competition may appear unwarranted, at least at first glance. The benefits of markets – fostering production and supply in response to buyer demand, and doing so at prices reflecting cost – would seem to be just as important, if not more so, during emergencies.

One possibility, not to be dismissed, is that some firms, following the adage “don’t let an emergency go to waste,” are taking advantage of pandemic uncertainty to try to get around competition law. I am confident that such efforts will not be successful in Canada, the US, or the EU. Efforts to invoke “failing firm” justifications during the pandemic for anti-competitive mergers meet [similar skepticism](#).

The pandemic-driven decline in demand is causing huge losses in sectors with substantial fixed assets; airlines may be the poster child. However, the preferred policy response has been [state aid](#), rather than permission to collude to raise prices.

To deal with the need for medical equipment, one hears appeals to exploit economies of scale, the idea that bigger firms have lower costs on average. This may be true, but it is not likely for manufacturing in the near term, as production capacity is pretty much set. (This is the same reason why “efficiency” claims for mergers that substantially reduce competition are deservedly hard to validate.)

Although these reasons are not persuasive, there remains an additional consideration. It begins with [doubt that the benefits of markets remain compelling in a pandemic](#).

Prices can’t promote good choices if buyers don’t have the time to compare offerings from different sellers. Moreover, while economists view prices as couriers of information and incentives, the public views them as devices to move money from one person to another. Having goods end up in the hands of those willing to pay the most, and profiting from doing so, isn’t appealing when it comes to masks and ventilators in a pandemic. Price spikes, or [gouging](#), like disease spikes, are to be avoided.

Consequently, some companies are being asked to act in ways different from what prices suggest, especially when policies prevent prices of increasing as a result of the emergency demand for them.

One example is that those that make things critical in dealing with a pandemic, like masks or other PPE, should expand output beyond what prices would compel. Other companies may be asked to switch product lines to address those needs, for example, [auto parts companies making ventilators](#).

Were prices allowed to rise, the firms presumably would do this without being asked. Another action, unrelated to demand spikes but rather to the economic recession induced by policies to cope with the pandemic, would be unprofitable efforts to protect workers; Forbes recently published a [ranking](#) of companies by COVID-related benefits for employees.

Consider the choices facing businesses to go along with these social aspirations. A mask or PPE maker that produces at a loss, or any firm that retains workers without the revenue to support them, puts itself at a disadvantage compared to competitors in attracting investors. A car company that switches to ventilators loses market share to competitors that do not follow its lead.

Any company going down this path on its own risks falling behind, even if it would prefer to help. So, how might we get them to respond to the pandemic, when prices aren’t there to provide incentives and rewards? Cooperation among them, so none loses out to others, can remove this obstacle for the private sector to do what we need.

Just as we all wish for a vaccine or treatment to get COVID-19 off our backs, this cooperation should be temporary. It may seem small compared to restoring our health and society, but we also can’t wait to get back to letting prices and markets do their job.

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