



ARTICLE

FTI Consulting

The Decade of Disputes

No barriers to antitrust claims from corporate activists

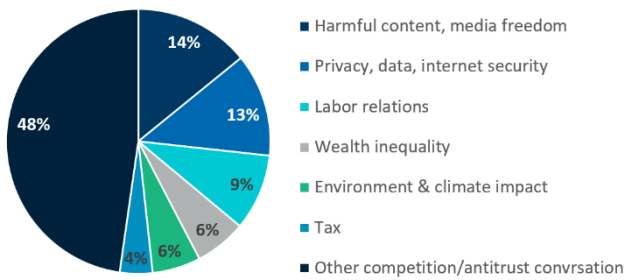
An analysis of competition policy social conversation has found that news coverage around the topic of antitrust has created a network of online commentary relentlessly focused on so-called big tech companies. Regardless of their involvement to the story of the day, coverage of high-profile tech companies is disproportionately skewed by a narrative that places these businesses as targets of attention by antitrust authorities. This provides the backdrop and context for future news coverage – creating a perpetual news cycle on big tech and antitrust.

FTI Consulting ran a digital media analysis spanning three years from H2 2018 to H2 2021, based on publicly accessible information from news sites and online conversation from Twitter, Reddit and other blogs or forums – in total, this covered 628,560 items analyzed for key themes and sentiment around competition and antitrust. In the last year alone, coverage and conversation on these topics has increased by 73%.

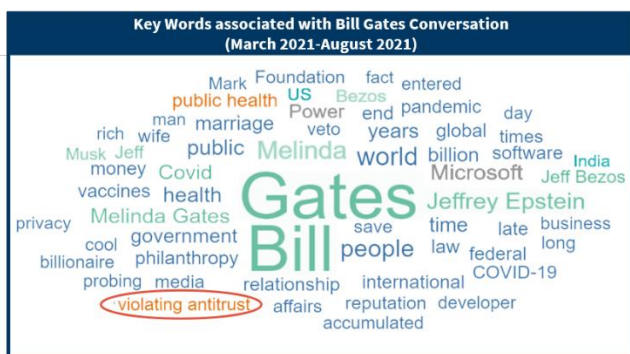
This analysis highlights a trend of antitrust being used as a prism and a tool for activists to campaign and threaten action against a company to seek change. This has taken on a wide interpretation of the theme of antitrust, covering a range of issues including tax, data privacy, environmental issues and labor relations. In particular, FTI has found that in the majority of these instances (52%), the primary conversation is not necessarily about a competition issue, but antitrust regulation is the prism through which a separate grievance is raised against a corporate entity or group of companies.

When looking at these topics in detail, the past 12 months has seen a significant growth in online conversation referring to competition concerns in relation to issues affecting the technology sector. In particular, debate around harmful content and free speech that is often associated with social networks and online platforms rose by 96% year-on-year. Meanwhile, the topics of privacy, data and internet security saw a 78% rise in volume year-on-year with references throughout by commentators and campaign groups citing competition issues.

Share of primary topic in competition/antitrust coverage and conversation

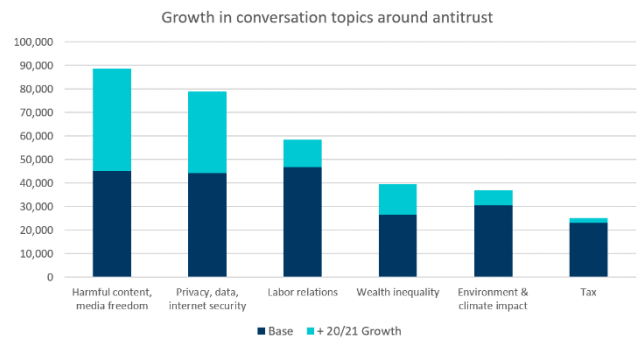


Often these conversations are highly personalized, not just attacking the practices of a particular business but invariably also targeting the company leadership or founder to demonize their wealth or other personal interests. A common link is made between imbalance of power in a market and imbalance of income between company leadership and the average employee or public purse. For example, as online conversation around Bill Gates surged in 2020/21, one might have expected coverage to be broadly positive in relation to his involvement in Covid vaccination funding. However, away from the Covid-19 vaccine conversation, the overwhelmingly negative sentiment was driven by two factors – past government antitrust investigations into Microsoft and more recent news on his divorce.



Within FTI Consulting’s analysis, a number of stakeholder groups emerged driving the online conversation in this area, including:

- **Political leaders**, with the most influential group being US Senators sitting on the Subcommittee on Competition Policy, Antitrust, and Consumer Rights
- **Media outlets**, particularly key business outlets such as [Bloomberg](#) and antitrust specialist titles such as [MLex](#) and [Concurrences](#)



Looking in particular at examples of notable drivers of the public debate around antitrust, one such instance is the conversation created around the publication of ‘*Antitrust: Taking on Monopoly Power from the Gilded Age to the Digital Age*’, a book by Senator Amy Klobuchar who also chairs the Subcommittee on Competition Policy, Antitrust, and Consumer Rights. [A Washington Post opinion article by Senator Klobuchar summarizing the arguments in her book](#) generated significant social media traction earlier this year. Other examples include Matt Stoller, author of ‘Goliath: The Hundred Year War Between Monopoly Power and Democracy’ and publisher of monopoly-focused newsletter [BIG](#), as well as D. Daniel Sokol from the University of Florida Levin College of Law and Editor of [Antitrust and Competition Policy Blog](#).

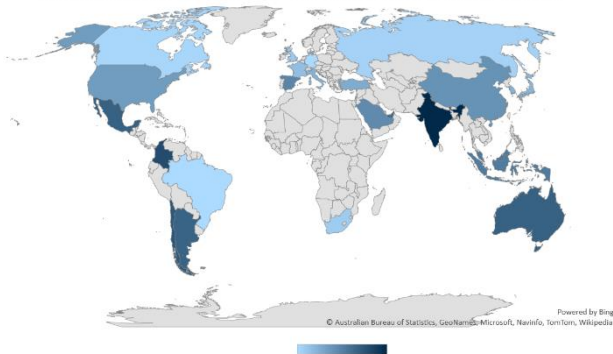
FTI Consulting’s previous studies have shown that COVID-19 has also dramatically affected the nature of international disputes, particularly around antitrust, finding that [media coverage “strongly affects” the investment decisions of 61% of institutional investors](#). 48% of hedge funds surveyed expect litigation funding to be deployed in competition cases, amid the rise of antitrust activism by regulatory authorities across several international markets. The hedge fund community is more acutely aware of the risk than the average

institutional investor, where only 31% of respondents foresee competition claims backed by litigation funding.

FTI Consulting has also sought the views of 2,800 senior decision makers in large companies across the G20 with average global turnover of USD 17 billion and average global headcount of approx. 25,000. This research, conducted in July 2021, shows:

- A quarter of large businesses are being investigated for market dominance or expect to be investigated by regulatory bodies over antitrust concerns over the next 12 months
- UK businesses are significantly less concerned about competition concerns following the UK’s withdrawal from the EU, despite the assertive approach recently taken by the Competition and Markets Authority. Fewer than one-in-five surveyed UK businesses are expecting antitrust investigations in the coming year, compared to one-in-four surveyed businesses based in the US or EU.
- Corporations in the EU are likely to get antitrust scrutiny in the context of broader EU objectives such as digitalization and taxation. EU competition/regulatory initiatives likely to be adopted in the next year or so will give the EC more tools achieve EU industrial policy and control state aid and foreign subsidies.
- Businesses in the technology, telecoms and energy sectors were amongst the most prepared for potential antitrust investigations, while those in the infrastructure and transportation sectors were less concerned about their exposure to antitrust regulatory risk.

Global perception study of antitrust scrutiny levels



FTI Consulting offering for competition cases

What We Offer

- Integrated Competition communication
- Specialist antitrust and top-tier financial media engagement & influencer campaigns
- Regulatory / policy counsel and advocacy
- Comprehensive stakeholder mapping
- Multi-stakeholder communications rollout from announcement through integration
- Leak strategy and scenario planning
- Post-merger integration communications

The Value We Deliver



Tailor stakeholder-specific messaging to drive positive sentiment across all constituencies from day one to integration



Engage with key media and key influencers throughout the deal lifecycle to reinforce value proposition



Maximize certainty of close and minimize political disruption through proactive and reactive engagement with regulators and policymakers

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About FTI

FTI Consulting is an independent global business advisory firm dedicated to helping organisations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centres throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities.

For more information, visit www.fticonsulting.com and connect with us on Twitter (@FTIConsulting), Facebook and LinkedIn.

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Case Studies

\$66 billion merger - A global leader in seeds and traits, crop protection, and precision agriculture, engaged FTI Consulting to advise the company on a global, multi-stakeholder communications platform to support the company’s combination with a leading global healthcare and agriculture company and manage the regulatory review processes in a number of jurisdictions across the globe.

High-profile class action litigation in different EU jurisdictions – assistance in addressing the communications aspects of the dispute with a view to minimize the client’s public exposure and to reinforce its legal arguments at the same time as ensuring that the key messages reach key audiences ahead of critical junctures in the proceedings

Political and communications guidance through a state aid investigation launched by the European Commission and advice on the developments and implications of on-going regulatory reform in state aid and EU financial services.

Successful advocacy campaign around the General Block Exemption Regulation in order to obtain an exemption for certain employment and training activities.

Energizer’s Acquisition Of Spectrum’s Batteries Business: FTI Consulting’s Brussels office provided Communications and Public Affairs support to Energizer for this complex and high-profile merger. During Phase I, we implemented stakeholder and media relations strategies to secure and enhance our client’s position, and mobilised intelligence gathering of activities in Brussels and in-market. The merger was granted approval in Phase I, within 25 working days. FTI Consulting neutralised the media debate in Brussels in a context of significant anti US-sentiment and public concern and scrutiny over competition issues.

Protecting an iconic technology brand through a high-profile intellectual property dispute dubbed the “smartphone wars”, including antitrust complaints in the US and EU filed alongside civil litigation claims. FTI’s remit involved minimising misinformation on the case, while upholding the corporate and industry reputation of our client through each milestone of this hostile situation.

FTI services for the legal community

Helping lawyers resolve complex challenges for more than 30 years

