THE INTERACTION BETWEEN COMPETITION AND DEMOCRACY

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Foreword

This paper considers the links between competition and democracy. Democracy is not a factor that many competition authorities consider in their day-to-day functioning. However, that does not mean that competition is not relevant for the maintenance of healthy democracy. Indeed, this idea was a core part of the motivation for introducing antitrust laws in some jurisdictions.

The main link between competition and democracy may be the potential for the acquisition of economic power by firms that face ineffective competition. When economic power grows large, it may be possible for firms to convert it into political power, allowing them to influence and affect a range of outcomes, independently from democratic will. The link between competition and economic power is complex, with factors that may lead to economic power not always matching the factors that affect how competition delivers benefits for consumers. Given the potential trade-off with consumer outcomes, further research to understand the potential harms to democracy from competition may be worthwhile, notwithstanding the empirical challenges involved.

While competition policy may not need to be changed on account of democracy, the case that there are benefits to democracy from increased competition is an easy one to make. This provides another reason for robust and resourced competition policy to champion and preserve competition.

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1 Introduction

The interaction between democracy and competition may not be an everyday discussion in the field of competition policy. Nonetheless, the political and economic organisation of a society are not independent and discussion of the links between competition, including competition policy, and democracy has a long tradition (see Box 1 further below). These links may have even played an inherent part of the reasons for implementing some of the first competition laws. Despite this, it is fair to say that democracy has not played a major part in the everyday implementation of competition law over the last few decades.

Recently there has been increased discussion over the role of competition policy in supporting democracy. For example, in a speech in June 2024, European Commission Executive Vice-President Margrethe Vestager noted that "at its core, competition policy is a democratic tool".[1] Discussions around the role of competition policy and democracy take place in the broader context of evidence of increases in industry concentration over recent decades in some jurisdictions (Calligaris et al., 2024[1]), as well as concern about the future trajectory of democracy in the face of rising populism in many countries.[2] The rise of digital technologies and potential for "winner takes all" dynamics are also important context and heighten the stakes for these discussions.

These developments are raising questions around whether it is only consumer outcomes that matter from a competition policy perspective, with some arguing that as competitive markets are central to democracy and the restriction of corporate power, more needs to be done.[3] It is therefore timely to consider the relationship between competition and democracy.

The OECD discussed competition and democracy in 2017 at the OECD Global Forum on Competition, which hosted a session on "Are Competition and Democracy symbiotic?".[4] Related issues have also been considered during other discussions. For example, in June 2023 the Committee held a discussion on the Consumer Welfare Standard, including its advantages and disadvantages compared to alternative standards (OECD, 2023[2]).

There are several potential motivations for considering the topic of competition and democracy. Firstly, better understanding the role and potential benefits of competition is an important exercise for the competition community. For example, a positive relationship between competition and democracy would be another reason to champion competition.[5] Second, across the OECD, competition authorities are part of the institutions of democratically elected governments. Understanding the nature of interaction could therefore be valuable to preserve the long-term sustainability of competition policy. Finally, it is worth considering how current competition law frameworks consider any interaction between competition and democracy. While changes should not be made lightly, any area of policy might wish to consider if there could be an enhanced role for them to play in preserving democracy, competition included.

To consider these issues, the paper is organised into two parts.

The first considers the relationship between competition and democracy. It starts by framing democracy based on previous work by the OECD. It then considers several aspects of how democracy may affect competition, including whether citizens prefer competitive markets to non-competitive ones and how competition law is implemented within democracy. It also considers how democracy contributes to competitive markets, in part by examining the risks to competition from non-democratic governance structures. It notes the importance of independent and robust institutions to build trust in governance. The paper then considers how competition could affect democracy, focussing on the relationship between market power and economic power, and the potential risks these could raise in relation to political power and democracy. In particular, the paper notes the potential for economic power to give rise to political power through a variety of mechanisms, such as lobbying activity. This political power could pose a threat to democracy. However, the relationship between market power and economic power is complex and it is not clear precisely when and how a change in the levels of competition pose a threat to democracy.

The second part considers the role of democracy in competition policy. It starts by acknowledging the value of predictability in competition law and so sets out a set of conditions that would need to be met in order to consider adjustments to current practice. It also notes that to the extent that competition is positively related to democracy, competition policy can be a tool that promotes democracy absent any direct consideration of it per se. The section finishes by describing several categories of approaches for competition policy in relation to democracy, noting how such approaches could work and their potential advantages and disadvantages. These range from approaches that offer minor departures from business-as-usual, such as incorporating considerations of democracy into prioritisation or advocacy, to approaches that seek to directly incorporate democracy as an analytical consideration. The paper ends with a conclusion.

2 The relationship between competition and democracy

This section considers various possible links between competition and democracy. As a central theme of the rest of the paper, and before discussing its interaction with competition, it is necessary to start by considering what is meant by the term democracy. After doing so, the next section discusses the relationship between competition and democracy from the perspective of how democracy affects competition. This includes considering whether democracy inevitably leads to competitive markets, how competition works outside of democracy and the implementation of competition law regimes within the context of democratic governance.

The final part of this section considers how competition may affect democracy. This includes identifying various potential mechanisms through which the level of competition could affect democracy, as well as exploring the empirical literature regarding the relationship.

2.1. How to frame democracy

It is beyond the scope of this paper to define the ideal democracy in detail. However, in order to discuss the links between competition and democracy, a framework is needed that identifies characteristics of democracy and provides some sense of how they can influence each other. This is necessary to have a sense of "better" and "worse" states of democracy. Absent this, it would be difficult to discuss meaningfully how more or less competition could positively, or negatively, affect democracy.

There are several potential definitions of democracy, and which one is chosen may affect its relationship with competition.[6] In this regard, the OECD has a number of instruments that refer or relate to democracy. The 2021 OECD 60th Anniversary Vision Statement highlights that the OECD is a like-minded community, committed to the preservation of individual liberty, the values of democracy, the rule of law and the protection of human rights. [7] In 2022, OECD members and certain accession countries adopted the 'Declaration on Building Trust and Reinforcing Democracy'[8] cementing the OECD Reinforcing Democracy Initiative, launched in 2021 to provide evidence-based guidance and good international practices to help countries reinforce democratic values and institutions. Other OECD instruments that refer to democracy include, for example, the Recommendation of the Council on Transparency and Integrity in Lobbying[9] and the Recommendation of the Council on Open Government.[10]

These works provide a reference point from which to understand democracy. For example, the 2022 'Declaration on Building Trust and Reinforcing Democracy' includes the following statements which are useful when considering how the OECD's work on democracy is framed:

> *WE RESTATE our shared commitment to the core values of democracy, including respect for human rights and fundamental freedoms, free and fair elections and the integrity of electoral systems, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency, integrity and accountability in the public sector, and an enabled and protected civic space.*

> *WE REAFFIRM that democracy remains the system of government best placed to ensure inclusive, prosperous, sustainable and peaceful societies through constant self-assessment and self improvement*
>
> *[…] WE RECOGNISE that renewed efforts to build trust in public institutions are essential for the future of democracies.*[11]

This paper will take these statements as its main framing of democracy, comprising of free and fair elections and the rights that are required to guarantee them, including the rule of law, separation of powers, human rights and fundamental freedoms. There are several other factors which may also be relevant for the definition and success of democracy, including its supporting institutions and the level of trust in them. How different forms of democracy might affect its relationship with competition, alongside the relevance of other concepts, such as liberty, will be discussed as relevant throughout.

This framing of democracy also provides a useful framework for discussing how it interacts with competition as the list of attributes allows the identification on directional relationships. For example, a strong rule of law suggests a better functioning democracy, whereas a lack of rule of law does not. While measuring each of these individual elements is itself likely to be challenging, it does provide a theoretical framework from which to begin discussing a directional relationship between competition and democracy.[12]

2.2. How democracy may affect competition

Having provided a framing of democracy, the first part of the discussion on the relationship between competition and democracy focuses on several aspects of how democracy may impact competition.

It starts by considering the extent to which competition as a process is something that is likely to emerge from democratic societies. Next, it explores the role of democracy in promoting competition, including the nature of competition outside of democracies. Finally, it considers how democracy affects the implementation of competition policy.

2.2.1. Do citizens prefer competition?

There is little point in discussing the links between competition and democracy if most democratic processes lead to economies that are either organised without competition or do not value it. As such, it is necessary to consider the preferences of citizens regarding competition as ultimately these would be expected to shape policy in a democracy.[13]

Competition occurs within markets. Therefore, while this paper will not consider the merits of market-based economies in detail, before considering the role of competition in democracy, it is necessary to consider the role of markets. Political outcomes set the rules, either implicitly or explicitly, for all economic activity, including those that could affect market competition (Teachout and Khan, 2014[3]). However, in practice the emergence of market-based economies may be gradual and influenced by broader, non-economic factors, such as a natural consequence of granting personal liberties and freedoms. Personal liberties imply economic liberties, which are likely to lead to markets. For example, (Fox, 2019[4]) argues that democracy relies on markets, which support democracy through their ability to provide civil and economic liberties and rights.

There is evidence that market-based economies and open trade provide a wide range of benefits to societies, including higher levels of economic growth and living standards (OECD, 2023[5]). Further, for the purposes of this paper, discussing competition and democracy without considering a market-based economy has limited value. As such, while the balance between market and state led economic activity may vary, the paper will focus on market-based economies within democratic regimes.[14]

In market-based economies, for competition to be preferred from a democratic perspective, it should provide long-term benefits that the majority of society values more than reduced competition.[15] Competition brings many benefits, lowering prices, increasing quality and innovation, as well as increasing productivity and reducing inequality (OECD, 2014[6]). However, overall preferences may depend on the distribution of firm ownership and assets across the economy, especially if for example there are many beneficiaries of reduced competition, such as individuals who directly benefit from increased firm profits.

There is some theoretical literature considering the question of whether democratic preferences result in competition. (Ghazzai et al., 2021[7]) develops a theoretical model that considers choice between monopoly and duopoly in a society comprised of citizens that can potentially be workers, consumers and shareholders, each having different preferences for quality and effort. In the model, whether monopoly or duopoly is selected depends on the prevalence of shareholders in society, as well as citizen's relative preference for quality over effort, as preference for profit and less effort can lead to a democratic choice of monopoly over duopoly.[16] While the model relies on numerous simplifying assumptions, it demonstrates that the main obstacle for a majority vote in favour of competition would be if the profits from reduced competition were sufficiently widespread.[17] In practice, however, it seems unlikely that such a condition would be met given the skewed ownership structures of assets in most countries.[18]

Regarding the preferences of citizens on competition in practice, these are not easy to separate from the general outcomes of democratic elections. However, some survey evidence suggests that, at least in some countries, there may be a preference from citizens for competition within markets. For example, the European Commission's Eurobarometer survey suggests that the vast majority of respondents agreed with the goals of competition policy (European Commission, 2022[8]).[19] Responses to such questions may vary by country, as some literature suggests that cultural values may affect preferences regarding competition, and consequently competition policy. For example, works such as (Lee, 2008[9]) and (Pena, 2023[10]) discuss how different cultures may not value competition in particular forms.[20]

Despite these possible variations, competition law is now widespread within democracies, both in and outside the OECD. This suggests that there have already been many decisions taken to preserve and promote competition indirectly via democratic processes.

2.2.2. Effects of democracy on competition

Democracy, as framed in this paper, could provide a basis for competition by ensuring the rule of law and the economic freedoms required for market-based economies to flourish.

In discussing democracy's effect on competition, a useful consideration is the role of competition outside of democracy. Market-based economies are not limited to democracies, with several examples of non-democratic countries also having competition authorities that promote competition. This suggests that these jurisdictions recognise the importance of competition as part of well-functioning markets.

Eleanor Fox summarises this nicely by noting that "democracy requires markets, markets do not require democracy" (Fox, 2019[4]). This suggests that the link between competition and democracy may not be symmetric, as competition may exist outside of democracies, irrespective of its role within a democracy.

This raises the question of whether competition is likely to thrive more when accompanied by democracy or not. There are several potential risks to competition absent democracy. For example, one of the main requirements for market-based competition, economic liberty, could be maintained through other forms of government (Deutscher, 2022[11]). However, in the absence of some of the pillars of democracy, such as a robust rule of law, protection of rights and the independence of the judiciary, there may be limits to economic freedom that restricts the effectiveness of markets and competition, impeding the ability of private enterprise to effectively compete.

There may be limits to the rule of law in societies that operate without institutional separation of powers or fully guaranteed individual rights. Without these protections, there will be added uncertainty on the ability of firms to continue to operate as expected and realise returns, thereby reducing incentives to invest. Reduced investment could hinder innovation and make it more difficult for new entrants to challenge incumbents. On the other hand, political stability has the potential to also affect investment incentives, and may be higher in democracies in some circumstances.

More generally though, absent democracy, political power is likely to be concentrated. This creates a risk that those in political power have both the ability and incentive to develop and maintain economic power by reducing or distorting competition. This would be a particular risk as state involvement in market activity increases and as the democratic pillars mentioned above weaken. Such power could manifest in a number of ways. For example, political power could be used to raise regulatory barriers that favour particular incumbents at the expense of others, restricting competition, or provide preferential access to government contracts.

The rest of the paper focuses the discussion on the links between democracy and competition, assuming that a democratic system of governance is in place.

2.2.3. The institution of competition law in a democracy

To complete the discussion on the effect of democracy on competition, another angle to consider is the implementation of the institutions of competition law in a democracy. In general, like many areas of public policy, most competition law regimes derive from appropriately delegated authority to perform a set function and maintain their democratic legitimacy through transparency and accountability. More broadly however, within a democracy, a disconnect between competition policy and democratic intention is unlikely to be sustainable.

Much has been written on the importance of independent institutions in competition law. For example, the OECD Recommendation on Transparency and Procedural Fairness in Competition Law Enforcement notes the importance of ensuring that competition law enforcement is independent by guaranteeing it is conducted by accountable public bodies that are free from political interference or pressure.[21]

As with other regulators, there are clear benefits from insulating decision making in competition from potentially politically motivated decision making, particularly when the policy in question pursues benefits over the longer term and independently of election cycles (OECD, 2017[12]). Decoupling decisions from political influence reduces the risk of them being time-inconsistent, as they may incentivise favouring outcomes that provide short-term benefits that generate political credit to those in power (OECD, 2014[13]). There can also be risks of manipulation that favours those holding political power, such as those described further below in relation to media markets and state-owned enterprises.

As further demonstrated in the Recommendation above, this independence is usually balanced against a number of checks and balances, such as the rights for due process and requirements for transparency and accountability. The measures sit alongside broader provisions protecting the rule of law and economic freedoms within a democracy, and to provide private citizens with protection from abuse of power by the state.

While broadly established and possessing many benefits, some that may promote democracy, it is worth briefly considering if the structures of competition law institutions pose any risk to the functioning of democracy.

Some have expressed the view that the independent operation of competition law risks the possibility of a disconnect between the democratic preferences that led to the implementation of the regime and its outcomes.[22] For example, (First and Waller, 2013[14]) describe their view of an ‘antitrust democracy deficit’ in the United States that arises due to the independent operation of competition law, interpreted by an independent judiciary, which has seen competition law become increasingly technocratic and further away from its democratic roots which, in their view, values broader and more aggressive enforcement, at least in the US.[23] Similar views were aired over half a century ago, for example in (Hofstadter, 1965[15]). Much of the context for these remarks is discussed in Box 1 further below.

Irrespective of the debate underlying these views, it is unclear that an independently administered competition law would necessarily lead to outcomes against democratic preferences over the longer term in all circumstances. While it is possible that individual decisions may not be decided in line with public opinion due to the careful analysis of fact and application of process, there appears to be no reason why the frameworks laid down by democratically elected legislatures will inevitably be deviated from by independent institutions (including judicial independence). Further, while in practice it would not be without difficulties, if a deviation between outcomes and preferences were to occur, there should be opportunity for this to be corrected, for example through amended legislation.

Another risk that other commentators have raised with independent authorities is that they can create a risk of proceduralism and administrative overload. Under such a hypothesis, the argument is that the desire to create robust procedures for good governance creates overly complex procedures which reduces the ability of agencies to respond to public sentiment (Bagley, 2021[16]). It is difficult to assess whether the charges described above could be fairly levelled at competition law in any given jurisdiction, let alone in general.

Procedures provide many benefits to independent authorities, including increasing trust in the operation and application of law, which is likely to increase, rather than decrease, faith in governance. There are also likely to be several risks with alternatives to independent authorities. Indeed, a lack of independence of authorities may pose a risk to democracy in many situations. For example, as well as potentially shifting enforcement focuses on shorter term political cycles, it may provide the opportunity for decision making to be motivated towards reinforcing political power (Cseres, 2024[17]). Further, it is not inevitable that the criticisms described above, if taken as given, imply that competition authority independence itself needs to change. Instead, changes in practice or institutional set-up may achieve the desired results, including potentially redefined checks and balances.

In addition, there may be risks in seeking to drawing too strong a link between individual competition law outcomes and democratic sentiment, given the information available and relative priority given to it by many citizens (Crane, 2021[18]). This does not mean that competition law can exist entirely outside of democratic forces but suggests that the link should be evaluated over the longer term.

Further, as described above, the European Commission's Eurobarometer survey suggests that, in Europe at least, there may not be a disconnect between the goals of competition policy and public sentiment.[24] While this alone does not preclude the risks above from occurring, it does provide some evidence that the independent operation of competition policy will inevitably lead to a large disconnect between competition law in practice and public sentiment.

Finally, to ensure the broader sustainability of robust competition laws and potential incentives to use it for political purposes, there may be a role for international or regional organisations to provide oversight to protect the integrity of national competition laws. For example, as argued by (Cseres, 2024[17]), in some circumstances there may be political incentives for nations to deviate from independent competition policy to favour certain firms which support the political power of ruling parties. While there are a number of international and regional instruments that promote the independence of authorities, there may be value in considering if more could be done in this regard.

2.2.4. Summary of how democracy may affect competition

The previous sections have considered several links between competition and democracy, from the perspective of how democracy may affect competition.

First, it considered whether competition was likely to emerge from democratic processes. While a complex issue which could result in a variety of different outcomes in practice, there appears to be reason to believe that given the many benefits of competition, more competitive markets should be viewed as a positive attribute within a democratic society. Next, it considered the role of democracy in promoting competition, and in particular the potential risks to competition absent democracy. These include possible restrictions on the rule of law and economic freedoms, that may undermine the effectiveness of market-based competition. Finally, the section considered the implementation of competition law within a democracy, noting the benefits of an independent competition authority but noting the importance of retaining a connection between how competition policy is administered and broader public sentiment.

2.3. How could competition affect democracy?

Having considered democracy's effect on competition, the following sections now consider the inverse relationship. That the level of competition across an economy could affect the vibrancy of its democracy is not a new theory. There is a long list of scholars who discuss the importance of competition policy in maintaining democracy. Many discuss the importance of robust competition in maintaining liberal democracy, such as (Amato, 1997[19]) or (Allen and Scheve, 2022[20]), whereas some go further to advocate for changes in the current approach, such as (Khan, 2018[21]) or (Baker, 2019[22]).[25] (Deutscher, 2022[11])) describes the link between competition law and democracy as a "foundational myth" for antitrust. Box 1 summarises some of the relevant historical discussion between competition policy and competition.

Many studies offer examples of how a lack of competition provides firms with economic power that then provides them with political power. For example, (Crane, 2020[23]) considers in detail the link between industrial concentration and the rise of fascism, focusing on Nazi Germany. His findings corroborate the idea that the high levels of industry concentration contributed to the seizing and consolidation of power.[26]

The effect of competition on democracy may not be linear, as much of the relationship appears to hinge on a threshold of competition. Only below this level might there be risks to democracy, as opposed to a continuous positive relationship where more competition always has a positive effect of democracy.

Box 1. Interactions of competition and democracy in the US and Europe

Introduction of the Sherman Act

The connection between competition law and democracy has been a recurring theme in the history of the United States, with various perspectives emerging overtime. This text provides several examples below. At the same time, other schools of thought have also emerged in relation to competition law in the United States, placing less emphasis on the link between competition law and democracy, for example to instead focus on economic efficiency and consumer welfare.

One particular example of the connection between competition law and democracy is the introduction of the Sherman Antitrust Act 1890 (Sherman Act). The Sherman Act sought to combat monopolistic practices and promote free competition. John Sherman, a former Senator of the United States (1861-1877 and 1881-1897), who was driven by the belief that monopolies not only harm consumers but also pose a significant threat to democratic process itself, succinctly said "If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of the necessaries of life. If we would not submit to an emperor we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of any commodity."

The early 20th century marked the rise of the progressive movement, led by Louis Brandeis, a former Supreme Court of Justice of the United States of America (1916-1939) who became a pivotal advocate for competition law as a barrier against corporate power. Brandeis was deeply concerned with the concentration of economic power, considering it as inherently dangerous, not only to the economy but also to democracy. He was observed saying "We may have democracy, or we may have wealth concentrated in the hands of a few, but we can't have both". Brandeis' views offer key insights into how competition law can be used as a tool not just for regulating markets, but also for protecting democratic values.

Robert Pitofsky, a former Chairman of the Federal Trade Commission (1995-2001), emphasised that competition law is not just about economic concerns but also about incorporating non-economic concerns to maintain a competitive marketplace in a functioning democracy. He believed that it is "bad history, bad policy, and bad law to exclude certain political values in interpreting the antitrust laws". John Galbraith pointed to the dangers of large corporations in undermining democratic processes by having excessive influence over policymaking. More recently, Robert Reich highlights that the struggle between capitalism and democracy, noting that "capitalism has invaded democracy".

Europe

Across the Atlantic, the European approach to competition law has been shaped by the ordoliberal tradition, particularly in post-war Germany. Ordoliberal competition law theory suggests democracy as a key non-economic factor that is essential in curtailing economic power from corrupting broader democratic processes. It recognises the link between economic freedom and political freedom, further arguing that dispersed economic power is crucial for a functioning democracy.

Daniel Crane, an academic, draws a compelling connection between monopoly power and the rise of fascism in Nazi Germany. He argued that the concentration of economic power in the hands of a few large corporations facilitated the Nazi regime's authoritarian control. According to Crane, the lack of competitive markets in pre-war Germany allowed the regime to manipulate economic resources and suppress opposition, illustrating the dangers of monopolies in undermining democratic processes.

Sources: Sherman (1890), *Congressional Record – Senate*, https://appliedantitrust.com/02_early_foundations/3_sherman_act/cong_rec/21_cong_rec_2455_2474.pdf; Brandeis (1913), *Other people's money and how the bankers use it*, https://dn790009.ca.archive.org/0/items/otherpeoplesmone00bran/otherpeoplesmone00bran.pdf; Irving Dilliard (1941), Mr. Justice Brandeis, great American: press opinion and public appraisal, https://babel.hathitrust.org/cgi/pt?id=mdp.39015009170443&seq=9; Pitofsky (1979), *The Political Content of Antitrust*, https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=4867&context=penn_law_review; Galbraith (1967), The New Industrial State, https://www.jstor.org/stable/j.ctvcm4hjz; Reich (2007), *Supercapitalism*, https://www.jstor.org/stable/20752805; Millington and Willis (2022), *Competition law and non-economic considerations: the particular case of democracy*, https://www.jicl.org.uk/journal/june-2022/competition-law-and-non-economic-considerations-the-particular-case-of-democracy; Crane (2018), Antitrust and democracy: a case study from German fascism, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3164467.

A significant part of the context for the current discussion of the importance of competition in defending democracy is evidence of increasing concentration in a range of countries (OECD, 2024[24]). While there is debate as to whether market power has materially increased, there is increasing evidence that concentration and mark-ups have risen over recent years.[27] At the same time, there are suggestions that democracy may be coming under increased pressures in some areas, with for example concerns surrounding the strength of the rule of law, trust in institutions or the proliferation of disinformation.[28]

Despite this, there appears to be relatively few empirical studies measuring the relationship between competition and democracy, or associations between economic and political power. Indeed, it is an area that has been flagged as a crucial one for ongoing research by more than one scholar, for example, by (Robertson, 2022[25]), (Cowgill, Prat and Valletti, 2022[26]) and (McCarty and Shahshahani, 2023[27]).

While the absence of empirical research is likely explained in part due to it not being at the forefront of pressing research needs, there are also a number of empirical challenges that may have contributed to the lack of empirical evidence. Three main empirical challenges stand out. The first is the difficulty in measuring either competition or democracy, neither of which has an unambiguous metric that fully captures all of its dimensions. As such, all attempts at estimating the relationship empirically are likely to suffer from some degree of measurement error, making it difficult to capture the true relationship.[29] To compound this issue, even if a hypothetical metric is identified, there must be sufficiently robust data available for it. Second, competition and democracy are both likely to be affected by, and themselves influence, a wide range of other factors, many of which may be difficult to measure themselves. Thirdly, the relationship is likely to be multi-directional yet asymmetric, making it difficult to isolate the true nature of the relationship.

The few studies that do exist appear unable to demonstrate a clear link between competition and some measures of the quality of democracy. For example, (Petersen, 2013[28]) studies the links between antitrust laws, economic growth and some measures of democracy, finding no positive relationship between antitrust laws and democracy.[30] Similarly, (Ma, 2016[29]) finds only a very small effect of antitrust laws, measured based on survey responses from businesses regarding antitrust effectiveness, on the same measure of democracy. These studies focus on competition law rather than competition itself and so do not preclude a relationship between the two. Further, as discussed below, there are significant empirical challenges in studying this relationship which may explain the lack of findings. Nonetheless, the apparent lack of a strong relationship between antitrust laws and democracy presents important context within which to consider the broader intuitive relationship between competition and democracy.

While empirical studies directly measuring the relationship between competition and democracy are relatively scarce, the OECD is building a growing body of evidence examining the link between public perception of the private sector's political power in a country, among other aspects of public governance, and trust in government. In democracies, robust levels of trust, coupled with healthy public scrutiny, are critical to help legitimise and protect democratic institutions and norms (Brezzi et al., 2021[30]). For example, the OECD Survey on Drivers of Trust in Public Institutions, a comprehensive cross-country study aimed at understanding what drives public trust, identifies two aspects of public governance that most significantly drive trust levels: the government's *perceived* ability to use the best available evidence in decision-making and *perceived* capacity to balance the interests of current and future generations (OECD, 2024[31]).

Despite the importance of evidence-informed and fair decision-making in building public trust, there is a widespread feeling across OECD countries that private sector interests often exert undue influence on decision-making processes (OECD, 2024[31]). The OECD Trust Survey results notably reveal that 43% of people across the 30 surveyed countries believe their national government would likely accept demands from corporations that benefit their industry but harm society as a whole. Likewise, nearly half of the population (49%) believe that a high-ranking political official would likely exchange a political favour for a lucrative job offer in the private sector. This widespread scepticism reflects a deep-seated worry about the integrity of political leadership and the potential for corporate interests to sway governmental decisions. This perception of private interests overshadowing public good undermines democratic values and contributes to a sense of exclusion and inequality within the democratic decision-making.

2.3.1. Competition, concentration and economic power

To further the discussion on the links between competition and democracy, it is necessary to distinguish between several related but different terms. In particular, the relationship between competition, concentration and economic power.

Measuring competition is notoriously difficult (OECD, 2021[32]). Competition is a process of rivalry between firms, which can manifest in multiple ways. Many competition laws distinguish between a lessening of competition and a substantial lessening of competition. Under such a lens, the reduction of one or two competitors from an existing longlist may not be considered a substantial lessening, with the key determinant usually being an assessment of whether the reduction or impediment to competition would be sufficient to allow operators to worsen their offering to consumers (OECD, 2023[2]).[31]

Concentration refers to the density of firms, typically measured by the share of supply. The fewer firms in a market, or the higher share held by relatively few, the more concentrated it is.[32] When seen in the context of an economic market, defined on product and geographic dimensions, there may be a correlation between competition and concentration (as well as plurality). However, this relationship is not straightforward and in many instances concentration will only be a proxy for competition, with further analysis required to understand the intensity of competition in a given market. In some circumstances increased concentration may allow firms to benefit from economics of scale which, as long as sufficient rivals remain in the market, could allow them to provide better outcomes for consumers.

When the concentration of firms is measured over an area that does not correspond to an economic market however, it is unlikely to be a good indicator of competition.[33] Instead, it may be a better indicator of firm size than competition. Firm size, perhaps measured by firm revenue, is not often used as a direct metric in relation to standard competition assessment. It may reflect operations across separate markets, including internationally, or the fact that firms operate within high value markets.

How these terms relate to economic or private power is an underlying theme to the link between competition and democracy. Private power refers to the ability of individuals, or firms, to place or coerce impositions onto others (Amato, 1997[19]).[34] It is in contrast to public power which is held by government. Economic power, sometimes referred to as corporate power, concerns a firm's financial strength or more generally the importance of the economic resources under their control. There appears to be no widely accepted metric for measuring economic or corporate power (Roach, 2023[33]).

How competition, or a lack of it leading to market power, relates to economic power is not straightforward.[35] Large firms may benefit from economic or private power, in part due to their market power across many industries (Wu, 2018[34]). Increased market power raises a firm's financial strength, reduces the likelihood of those financial resources being eroded, and may allow firms to leverage that market power into other areas of the economy. In this sense, market power is positively correlated with economic power, albeit imperfectly.

Economic power is not necessarily synonymous with market power (Greer, 1988[35]),[36] as factors other than market power could lead to economic power, such as firm size, namely the absolute or relative size of firms compared to the total economy, or the scope of firm activities.[37] For example, large firms may operate in many separate markets that are themselves reasonably competitive, but on aggregate produce sufficient profits to generate economic power for the firm in question.[38]

The imperfect relationship between competition and economic power, as well as the interrelated issues of concentration and firm size, underlies much of the potential relationship between competition and political power, which could then affect democracy. In this context, it is important to remember that the link between economic power and competition is in itself not always straightforward. [39]

2.3.2. Potential for economic power to lead to political power

The previous section discussed the potential link between competition and economic power, including the interaction with concentration. To consider how this may lead to an effect on democracy, it is further necessary to establish the potential for economic power to become political power. Political power reflects the ability to influence the outcomes of political processes, ranging from the establishment of regulations through to other actions of public governance.

At the outset, it must be noted that economic power is not the only factor that contributes to political power or the functioning of democracy. Concentration of political power can occur absent a concentration of economic power, and there may not be a concentration of political power even if economic power is concentrated (Crane, 2021[18]).

Nonetheless, an important argument in the context of competition and democracy is that concentration or firm size allows the accumulation of private economic power, which can be leveraged to obtain political power independently from the democratic process (Teachout and Khan, 2014[3]).[40] Further, it is possible that political power could be exploited to further reinforce economic power, leading to a “Medici vicious circle” (Zingales, 2017[36]).

There appear to be various potential mechanisms through which economic power could transition to political power. (Teachout and Khan, 2014[3]) lists several mechanisms through which they argue economic power can transition to political power, including “lobbying, campaign contributions, the revolving door, supporting policy research, influence over employees and contractors, and the dynamics of “too big to fail” as mechanisms of economic influence over politics”. More generally, the authors note that the nature of economic power means that there are likely many ways it could lead to political power, making it difficult to identify definitely all potential mechanisms.

In theory, the potential for these various mechanisms to transfer economic power to political power is straightforward. For example, economic power may provide funds that are not available to others to lobby officials to seek favourable regulations, perhaps that erect barriers to entry and cement market power. Similarly, funds could be used to influence research agendas with a view to increasing research that presents favourable analysis, perhaps on lowering regulation or increasing some forms of barriers to entry, or even to provide training to future academics or professionals.

That these links exist in theory does not mean they occur in practice, however. Further, even if the links do exist, there may be different levels of economic power required for them to be effective. It is unlikely that each factor will possess the same potential to transfer economic power to political power.

This potential may also vary by country, for example affected by relevant institutional frameworks, legislation and political practices. Institutional frameworks may act as a mitigating or accelerating force influencing the impact of declining competition and increased market concentration on democratic processes. For instance, campaign finance laws can determine the extent to which market power translates into political influence. Similarly, the balance between legislative and executive policymaking can affect how economic interests are represented in governance. The degree of parliamentary fragmentation may influence the resilience of democratic systems against potential distortions arising from market concentration. These institutional factors create varying responses to similar levels of market concentration across different countries, highlighting the importance of considering both economic and governance structures in analysing the health of democracies.

2.3.3. Effectiveness of lobbying on transferring economic power to political power

Much of the literature, and empirical studies, has focussed on the effect of lobbying which, while a legitimate part of the policy making process, is perhaps the most obvious activity through which economic power could be transferred to political power.

Lobbying, an important part of economic and personal liberty, can be undertaken by many groups and can take a variety of forms and purposes.[41] The OECD Recommendation on Transparency and Integrity in Lobbying and Influence acknowledges this when it states:[42]

> *RECOGNISING that since lobbying and seeking to influence government decisions are legitimate ways in which stakeholders participate in public decision-making processes and support informed decisions by providing valuable perspectives, data and insights for effective public policies, a wide range of stakeholders should have a fair and equitable opportunity to contribute to public decision-making;*

The Recommendation also highlights the importance of transparency in improving the integrity of lobbying and influence activities, including a wide number of specific recommendations such as making information and disclosures publicly available and enacting robust lobbying integrity frameworks. Such principles, as enacted effectively, may diminish the ability to transfer economic power to political power. However, such regulations do not necessarily negate the ability for certain mechanisms to potentially provide forms of political power in some circumstances.

Nonetheless, the potential for lobbying to distort competition has been recognised by the OECD and Box 2 explains how the OECD's product market regulation indices compare country's efforts to reduce the potential anti-competitive effects of lobbying.

Box 2. Lobbying in OECD's Product Market Regulation indices

Product Market Regulation

The OECD's Product Market Regulation (PMR) indicators measure the extent to which a country's regulatory environment aligns with internationally accepted best practices aimed at fostering competition. A competitive product market is essential as it drives innovation, boosts productivity, and enhances employment opportunity, ultimately leading to improved living standards.

The PMR indicators are divided into two main categories: economy-wide and sector-specific. The economy-wide indicators assess how regulatory barriers – such as restrictions on market entry and state intervention – affect competition across the entire economy. Sector-specific indicators, on the other hand, focus on particular industries where regulatory challenges may be more pronounced, providing a detailed picture of how competition is shaped within those sectors.

Lobbying metric and competition

The lobbying metric within PMR's economy-wide category focuses on regulatory processes, in particular evaluating the transparency and accountability of interactions between public officials and interest groups. This metric captures whether countries have legislation or rules to ensure that interactions with public officials do not unduly influence regulatory outcomes, which could otherwise distort competition. A country's overall score measures the combined quality of lobbying regulation broken down by three key components – the absence of general legislation, the absence of disclosure requirements, and the absence of ethical rules.

Specifically, the PMR indicators examine various aspects of lobbying, including whether the interaction between public officials and a broad range of potentially interested groups – such as professional consultancies, law firms, companies, and trade and business associations, trade unions, non-governmental organisations and think tanks – is regulated. Additionally, the indicators assess whether these groups are required to register in a public registry and whether there are sanctions for non-compliance. The transparency of public officials' meetings and whether the identities of consulted interest groups are made publicly available are also key considerations.

The focus on lobbying within the PMR indices highlights the potential risk to competition posed by unregulated influence on public policy. By measuring how countries regulate lobbying activities, the OECD draws attention to the ways in which lobbying can distort market dynamics and reduce competition. In the absence of robust lobbying regulations, there is a risk that powerful interest groups could exert disproportionate influence on the regulatory process. This could lead to the creation of barriers that protect incumbents and limit market entry, thereby reducing competition. For example, imbalance in lobbying during the policy-making process where the special interests of only some are promoted run the risk that regulations needed to correct market failures or distortions are abandoned. It may also lead to excessive regulation to protect incumbents, and thus to reduced competition, less economic growth and job creation.

Evidence from OECD's report on *Lobbying in the 21st Century: Transparency, Integrity and Access* suggests that firms from regulated sectors tend to engage in lobbying more heavily than firms from export-oriented or more competitive markets. A study in Europe showed that international institutions such as the European Commission or the European Central Bank had found product market reforms in countries under economic adjustment programmes thwarted by resistance from lobbying by vested interest groups. By ensuring transparency and accountability in lobbying activities, the PMR indicators aim to safeguard against such outcomes, promoting a more level playing field where regulations are designed in the public interest rather than be shaped by private interests.

It should also be noted that lobbying is more significant in some sectors than others. For example, more than a quarter of total corporate lobbying expenditure at the federal level in the United States in 2020 was shared amongst corporate interests in the pharmaceutical, electronics, insurance, real estate, and oil and gas industries.

Source: OECD Product Market Regulation Indicators, Key takeaways from the 2023 – 2024 PMR indicators, https://issuu.com/oecd.publishing/docs/key_takeaways_from_the_2023-2024_update_of_the_oec; OECD Product market regulation, Country notes, https://www.oecd.org/en/topics/sub-issues/product-market-regulation.html; OECD Lobbying in the 21st Century, Transparency, Integrity and Access, https://www.oecd-ilibrary.org/docserver/c6d8eff8-en.pdf?expires=1724944742&id=id&accname=ocid84004878&checksum=7EF05E240A862BD0A69F7B3D3EF3C855; Dellis, K. and D. Sondermann (2017), Lobbying in Europe: New firm-level evidence, Working Paper Series, No. 2071, European Central Bank, https://www.ecb.europa.eu/pub/pdf/scpwps/ecb.wp.2071.en.pdf.

The relationship between lobbying and market power is not straightforward.[43] If lobbying exhibits economies of scale – i.e. the costs decrease or effectiveness increases as more is undertaken – then it may be expected that larger firms would undertake more and be able to derive more influence from doing so (Cowgill, Prat and Valletti, 2022[26]).[44] It may also be that the more resources that are aligned to a specific interest, the more effectively lobbying can be used to pursue it. These imply that a rise in economic power could lead to more, or more effective, lobbying and a greater political influence.[45] Similarly, (Kerr, Lincoln and Mishra, 2014[37]) study the determinants of lobbying at the firm level in the US and find evidence of barriers to entry to begin lobbying, implying that certain firms may possess greater abilities to lobby than others.

There is a large literature on the impact of lobbying and the potential benefits it can provide firms by altering outcomes determined by political processes, such as regulation.[46] The question is the extent to which its effectiveness related to economic power.

Some studies suggest a link between lobbying and economic power. Analysis by (Cowgill, Prat and Valletti, 2022[26]) suggests that increases in firm size, provided by mergers, led to increases in lobbying spend of 22% compared to pre-merger levels.[47] This suggests a presence of economies of scale in lobbying spend. Similarly, (Showalter, 2021[38]) studies the link between industry concentration and firm lobbying spend across several industries, finding that as concentration increases it leads to an increase in lobbying spend, which they argue can be considered an increase in political power as businesses get larger. However, an increase in lobbying expenditure does not necessarily lead to political power.

On the other hand, another study appears to show little obvious link between competition and lobbying. (McCarty and Shahshahani, 2023[27]) find no relationship between firms' expenditure shares on lobbying and their respective economic concentration.[48] This is contrary to the expectation that economic concentration would lead to political power, which the authors argue should be shown by concentration in lobbying spend which can be considered a proxy for political influence.[49] The analysis also shows that the top spenders on lobbying have not changed much over the period, despite changes in concentration, and notes that there is not a strong overlap between firm revenues and their lobbying expenditure, with 39% being common to the top 100 firms by lobbying expenditure and by revenue. The authors argue this suggests a lack of commonality between politically and economically powerful firms.[50]

The implications of these mixed findings are that even assessing the impact of concentration on one potential variable that could affect democracy is complex. Perhaps there would also be different results in other countries. Nonetheless, additional research is needed to understand more concretely the relationship between competition, economic power and political power. For example, it could be valuable to consider the relationship between a range of measures of competition with metrics for political influence, including but also exploring beyond lobbying spend and campaign donations.

2.3.4. Other mechanisms

As (McCarty and Shahshahani, 2023[27]) acknowledge, lobbying is just one potential mechanism that could be used to convert economic power to political power, and they suggest that further research could find a relationship in those areas. In contrast to lobbying activities however, there appears to be relatively little existing evidence of the extent to which these other mechanisms transfer economic power to political power in practice.

The interaction between firms and the state can be multidimensional, providing the potential for influences to occur among many dimensions.[51] As such, aside from lobbying there are various potential mechanisms that may provide the ability to extend economic power to political power. As noted in (Teachout and Khan, 2014[3]), it may also be possible for economic power to transition to political power in ways that are difficult to identify ex-ante. It is likely that politically effective firms will be regularly identifying and appraising strategies for influencing policy makers and outcomes based on their interests.

Linked to lobbying, it is straightforward to understand how donations to political campaigns could provide a means through which economic power is transitioned to political power, either through supporting candidates that align with the interests of a firm or to influence candidate's policy positions. As economic power increases, firms would increase their ability to use such donations to exert influence.

Broader than lobbying, the ability to influence academic research and teaching could be another mechanism to transfer economic power to political power. For example, using funds to produce findings that are favourable to the interests of those that hold economic power could influence future policy discussion and decisions. There is likely to be a particular ability for this process to be effective, and transition economic power to political power, if there is a lack of transparency on the fact that the academic may receive funding in this way.[52] There has been speculation for some time on the importance of the role of such funding in influencing academics and in turn, affecting the outcome of political and regulatory processes.[53]

Similar results have the potential to be achieved through training programmes sponsored (partly or in full) by corporations, allowing those with economic power to influence the intellectual development of different policy circles, potentially including future holders of positions of power. For example, in a recent speech by Assistant Attorney General Jonathon Kanter, he argued that such mechanisms have provided the means for firms to influence the development of economic thought in the field of competition policy, with a view to lowering overall enforcement.[54] Such activity suggests how economic power could be transitioned into political power.

Further, in theory particularly large corporations that hold economic power may also be able to exert political influence through their significant number of employees. For example, they may be able to affect the political choices of employees to some extent through the provision of information. Alternatively, by providing potential future employment opportunities, firms that hold economic power may be able to influence the political choices of current political officials.

As above with regard to lobbying, many of these activities may have legitimate justifications and could occur absent economic power. It is also possible that they would be effective independently of it, reducing any link between competition and democracy. However, there are likely reasons to believe that economic power increases the ability to undertake these techniques effectively. Since market power is likely to be positively related to economic power, albeit imperfectly, the mechanisms above provide plausible routes through which economic power could be used to influence political outcomes more successfully in economies with less competition. The extent to which this occurs in practice, and the point at which it becomes a point of concern, is harder to identify.

2.3.5. Indirect effects of competition on democracy

Another route through which competition could affect democracy is by influencing other factors related to democracy. Through these mechanisms, competition influences another factor, which in turn affect the perception or functioning of democracy. As an indirect effect, it is likely to be more difficult to identify and measure how such mechanisms influence the functioning of democracy. Nonetheless, as a process that has the potential to provide a wide range of economic and non-economic effects, it is important to acknowledge the potential indirect effect of competition on democracy.

As an example, one mechanism by which competition could impact democracy indirectly is through the effect on the distribution of wealth and equality (Ma, 2016[29]). Inequality can be defined in a variety of ways and its relationship with competition is complex, warranting a detailed discussion beyond what is possible in this paper. There are also likely to be links between inequality and the economic power of firms as discussed above. Nonetheless, the potential for inequality to be affected by competition and then in turn affect democracy is fairly intuitive, at least at a high level. As a process, competition transfers surplus from firms to consumers. While not unanimously a process that increases inequality, in many circumstances competition will be a force to reduce inequality (Ezrachi, Zac and Decker, 2021[39]), (Salop and Baker, 2015[40]).[55]

For there to be an indirect relationship between competition and democracy through this mechanism, inequality must then affect democracy. Like many other relationships discussed in this paper, this is not straightforward. However, there appears to be good reasons to think that beyond a certain level, increased inequality is likely to be a threat to the quality of democracy.[56] This could be due to increased disenfranchisement with democracy as inequality rises, or the increasing levels of political inequality that follow economic inequality. As such, there may be additional indirect effect of competition whereby reductions in competition could weaken democracy by increasing inequality.

Another potential example, and perhaps more complicated one, between competition and democracy is through corruption. While economic power may increase the ability of actors to instigate corruption for political power, there may also be an indirect relationship between the two. This would be if competition reduced corruption, which in turn increased the quality of democracy (Emerson, 2006[41]). Increasing competition may reduce the ability for firms to engage in corruption. However, the literature on the relationship between competition and corruption is diverse and appears mixed.[57] More generally, the relationship between competition and corruption may depend upon a country's broader institutional framework. Nonetheless, if that relationship were established, it seems less controversial to assert that corruption does not positively contribute to democracy. If competition does lead to reduced corruption therefore, this would be another link whereby decreased competition reduced democracy.

2.3.6. Media markets and information

Despite being largely based on economic means, economic power may be more easily transitioned into political power in some sectors, although the potential is likely to exist to some extent across all sectors. (Bernatt, 2024[42]) argues as an example that concentration in restaurants is less likely to give rise to concerns about democracy compared to those in sectors which affect access to information.

Information plays an important role in effective democracy, providing accountability to those in power and the means for citizens to understand which political choices may best suit their preferences. At the same time, the control and flow of information can be influenced by competition. For example, competition in media markets and between other information providers, such as digital platforms, could affect what and how information different citizens have access to or view.

The importance of diversity of ownership within traditional forms of media, such as newspapers, TV and radio, has been well established within the competition community (Hewitt, 2004[43]). In particular, concerns around plurality of media ownership have led some countries to establish special merger regimes to consider the impact of changes in media ownership on the diversity of information sources.[58] However, such issues do not always overlap with what many would consider conventional competition analysis, focussing on plurality which may not correspond directly to product markets used to assess effects on competition.

These issues are being tested with additional ones due to the digital transformation, which has changed the nature of information consumption and the sources many consumers use to receive news (OECD, 2021[44]). These changes have potentially significant implications for democracy, particularly if the consumption of information is increasingly taking place through a narrow set of key platforms (Ezrachi and Robertson, 2024[45]). More broadly, the existence of digital platforms that are able to collect and process large amounts of data about their users, potentially presents an unprecedented ability for those competitors to influence democratic outcomes through shifting what and how information is provided (Robertson, 2022[25]). While some of these developments occur independently of competition, increased competition between online platforms could spur innovation, potentially encouraging market-based responses to support better functioning information spaces (OECD, 2024[46]).

The change in the nature of news consumption is likely putting pressure on news content providers. This may be exacerbated by purchasing power from digital platforms that further undermines the ability and incentive of news media to produce original content, potentially undermining the free flow of accurate and up-to-date information to citizens (OECD, 2021[44]). Such concerns have resulted in interventions in some jurisdictions, highlighting the potential for competition to affect news quality.[59]

As noted above, different sectors may experience a stronger relationship between competition and democracy. Given the importance of the media and related platforms in shaping public opinion, such markets are likely to be one such critical area.

2.3.7. Summary of competition's effect on democracy

Much of the discussion in the sections above includes examples of situations where economic power may be extended to political power, whether through lobbying or other forms. By themselves, the existence of these links does not imply an inevitable causal relationship between competition and democracy. While it must be true that a certain amount of economic power allows political power to be exercised, it is unclear how much is needed and the shape of the relationship as economic power increases. To further complicate matters, how economic power directly relates to competition, at least as commonly understood by most competition law practice currently, is complex.

Existing empirical evidence appears inconclusive. On the one hand, some studies provide some evidence of links between variables affected by competition which imply political power, not least lobbying. However, other studies provide no such evidence. At the same time, the lack of these studies does not provide compelling reasons to dismiss the well-established notion that competition affects economic power, which in turn has the potential to affect political power. More research should be considered.

Given the relative absence of empirical evidence on the links between democracy and competition, the current relationship between competition and democracy could be considered at two levels.

At a high level, it is clear that there are a range of risks to flourishing democracy as competition weakens. Consider the case of an entire economy dominated by a few firms and what they might mean for their influence on political processes and even elections. It is hard to argue that in such circumstances these firms would not have the ability to exercise undue influence on the outcomes of political process. In short, they would likely possess political power aside from that democratically provided.

At a more detailed level however, outcomes are more complex and more difficult to determine. One could similarly posit an economy of several thousand monopolists, each dominating their market area, but being relatively small at the economy level. It becomes more difficult to assert the link to democracy in such situations.[60] As these extreme examples testify, identifying exactly when competition should become a concern for democracy is not clear. To make matters more confusing, how competition links to economic power is itself far from settled.

From the little evidence that does exist, lobbying is identified as one of the most likely mechanisms to consider the potential relationship between competition and democracy. However, it is important to note that by its nature, the transition of economic power to political power is unlikely to be limited to just one mechanism. It is also likely that the potential effects of competition on democracy may vary by industry, with some sectors, such as media markets, exhibiting particular risks. Nonetheless, given the mechanisms described above, there is no clear reason why these concerns could not apply to any sector of sufficient size.

3 The role of democracy in competition policy

This section explores the role of democracy in competition policy. As noted in the first section, while competition may play an important role in democracy and competition policy is implemented within many democratic systems, the direct consideration of democracy in individual cases is rare.

While few in the field of competition policy would argue against strengthening democracy, it does not follow that competition policy is necessarily the right tool to achieve this. To illustrate these points, the paper starts by setting out a set of prerequisites that must be met in order to even begin considering a change to current approaches.

While further research is likely needed before considering substantive changes in approach, it is hard to deny the importance of healthy democracy in societies. As such, the next part considers alternative approaches to incorporating aspects of democracy within competition law, including examples of current approaches taken within competition law or related policies regarding democracy. It also identifies a range of hypothetical approaches that have the potential to incorporate to different extents democracy into competition policy. The intention is to introduce different approaches rather than to conduct a full analysis of how they might work in practice.

3.1. Prerequisites for adapting competition law to consider democracy

Beyond democracy, a broader context is emerging around the growing debate on whether competition law should consider a range of factors beyond the welfare of consumers. For example, in recent years more prominence has been given to the potential role of competition policy in dealing with concerns relating to sustainability (OECD, 2020[47]), labour markets (OECD, 2020[48]) and a range of other factors (OECD, 2023[2]). To some extent, the challenges of incorporating these aspects into competition law would also apply to democracy.

The majority of competition authorities still largely apply a notional consumer welfare standard (OECD, 2023[2]). Under such a standard, the main consideration for authorities is the effect of conduct or transactions on the outcomes for consumers. While these effects need not be narrowly constrained to prices, they would not typically extend to the potential indirect effects on consumers of a degradation in democracy. As such, the direct consideration of democracy into competition law is rare.[61] Further, while the relationship between market power and economic power is complex, under most competition laws, it is not contrary to the law to hold a dominant position, but only to abuse it or seek to illegally reinforce it.

That there are relatively few direct examples of democracy being considered does not mean that competition policy, or related areas of policy, have no role in promoting democracy. (Amato, 1997[19]) explores the crucial nature of competition laws for maintaining liberal democracy, where a careful balance must be struck between preventing illegitimate individual power arising while not overstepping into illegitimate public power. Under this view, and as discussed in the previous chapter, it is the operation of competition policy to promote and preserve competition that acts as a service to democracy. By promoting competition, competition policy indirectly contributes to a flourishing democracy.[62]

In addition, while many traditional competition tools focus on abuse of market power or the acquisition of it through mergers, other tools may be available for authorities. For example, market studies allow authorities to consider the state of competition in a market, with a view to advocating for improvements. In the case of increasingly popular market investigation tools, authorities may possess some power to address market power itself through altering behaviour or, at the extreme, implementing structural remedies (OECD, 2024[49]).

It is important to acknowledge the value of predictability and general convergence in the majority of current applications of competition law. It is unlikely that change can occur without risks. As such, any case for change to competition law, for example to directly consider democratic principles, must carefully consider the expected benefits and costs of such changes. In order to assess propositions of this nature, there appear to be several requirements that need to be satisfied.

Firstly, any consideration of change would need evidence that competition materially affects democracy. Absent this, there is little case for change. As discussed in the first part of this paper, there are theoretical links between competition and democracy, although it is difficult to specify exactly when competition affects democracy in practice.

Next, to change competition law because of this, it must be that as currently applied, competition law leaves a gap such that competition levels are not optimal for the preservation of democracy. Put another way, if the current application of competition law provides sufficient benefits to democracy, then there is no case for change.

Further, an alternative approach would need to lead to more optimal competition policy with respect to democracy, for example by directly contributing to it. Such an alternative approach would also need to avoid incurring major costs that outweigh the benefits of a new approach. These costs could take multiple forms, including increasing the cost of administering the system, reducing its predictability, or inducing other harms to efficiency and consumers.

Finally, even if changes could be made to competition policy that would promote democracy in a cost-effective way, it must also be the case that alternative approaches to achieve the aims or reduce harms to democracy from competition would be less effective or more costly. Otherwise, it could be preferable to use alternative policy means. It is not the focus of this paper to consider how other forms of regulation could be used to support democracy. However, part of any assessment of whether competition law should take a more active role in supporting democracy must also consider whether other instruments could better achieve the same aims.

For example, an alternative to considering a change to competition policy could be to consider further regulation on conduct that has the potential to transfer economic power to political power, such as lobbying or political finance. Theoretically, firms designated to have economic power could even have different rules than those that do not, akin to recent developments in ex-ante competition regulation in digital markets but applied more broadly.

However, the fact that other measures could also protect and preserve democracy does not necessarily preclude competition policy from also playing a role. The interactions between these regulations would need to be carefully considered to ensure a streamlined approach that minimises duplications while also preventing regulatory gaps from emerging.

Given uncertainty on the precise links between competition and democracy, it is perhaps premature to assess all of these steps in detail. The remaining sections describe some categories of different approaches to competition law that more directly consider democracy.

3.2. Different approaches

Broadly, it could be considered that there are two ends of the spectrum when it comes to considering the role of democracy in competition law (Ezrachi and Robertson, 2024[45]). One end could be described as a form of "business as usual" where the benefits to democracy are indirect, an incidental outcome of general competition enforcement which promotes and protects competition. Within this category of approach, perhaps the main issue to explore is whether small adjustments could be made to maximise any benefits to democracy. At the other end of the spectrum, approaches could directly consider the impact of any particular conduct or transaction on democracy, in addition to competition, marking a significant departure from most current approaches.

3.2.1. Adjustments to business as usual

Within current approaches, there may be potential for competition authorities to consider the effects of competition on democracy through their advocacy efforts. Such an approach champions the benefits of competition in promoting democracy, reducing the risk that it may not receive sufficient support. Advocacy could take place through published papers that seek to explain the role of competition in promoting democracy, or in discussion with decision makers. It may be that competition authorities use their position to argue against regulations that threaten competition and democracy. Spreading messages could also take place through speeches at public events.

For example, as mentioned above, in a recent speech, Margrethe Vestager spoke about the importance of competition in supporting democracy, and the various mechanisms in which competition advances democracy.[63] In this context, she outlined the vital importance of competition as part of a democratic society.

Relatedly, the role of competition in protecting democracy could also be considered by authorities in their prioritisation. While many activities for authorities will be non-discretionary, such as assessing merger notifications, it is likely that authorities will have some discretion in how they allocate resources. In this respect, focus could be given to situations where competition enforcement may be most likely to address harms that have a detrimental effect on democracy. This could include focussing monitoring efforts on markets where the potential for economic power to transition to political power is highest, such as those relating to the provision of information. It could also be useful to consider where there are risks of economic power emerging through anti-competitive means, including for example the conduct of large firms with market power.

Within current frameworks, there may also be room for democracy to factor more into prioritisation decisions or in the intelligence gathering of cases. For example, (Robertson, 2022[25]) points to potential for exclusionary and exploitative abuse from "clickbait":

> *"…by capturing a user's attention, digital platforms ensure that no competitor has access to this scarce "resource. At the same time, digital platforms extract as much data and money from users as possible, thereby possibly exploiting them beyond a reasonable measure."*

As noted previously, how citizens receive information has the potential to materially affect democracy and therefore it is possible that issues like clickbait could affect democracy. Whether this particular issue has a major effect on democracy, or constitutes an abuse of dominance, is unclear and would require further investigation. Nonetheless, it illustrates that there may be potential to target existing competition frameworks in ways that take democracy into account, albeit indirectly.

Finally, a controversial discussion related to business-as-usual competition policy is whether levels of enforcement are at the right levels to ensure competition benefits democracy. While this would imply that there are levels of under or over enforcement currently, it could also be that the risks of under and over enforcement have changed over time and so a different stance is required. This could be, for example, if the nature of industry has changed or if the risks to democracy from competition differ over time. Increasing enforcement could require a range of measures, such as lowering burdens of proof or providing competition authorities with additional resources.

Such changes may bring risks to due process and the rights of individuals. How much of a departure such an approach is from the norm depends upon how enforcement is increased. If there were historic underenforcement compared to existing standards of proof, as opposed to an incorrect balance between efficiency and concentration, then the costs of redressing this should be low.[64] However, changing the standard of proof and seeking more intervention is not without cost.[65] For example, there is likely a trade-off between greater enforcement and potential harms to economic efficiency, as well as increased regulatory costs.

3.2.2. External benchmark approach

(Ezrachi and Robertson, 2024[45]) identify what they describe as the "external benchmark" approach. This approach could be considered as an extension of business as usual that does not go as far as the more direct approaches discussed below.

Here, other legal frameworks, such as those on media freedom and political advertising, provide an external legal benchmark to be integrated into competition law. The approach expands upon the use of the European Union's General Data Protection Regulation (GDPR) in the Bundeskartellamt's 2019 case against Meta. See Box 3 for a discussion of the Meta case. According to Ezrachi and Robertson, the approach would allow authorities to:

> *rely on traditional theories of harm, while informing their analysis by making reference to external benchmarks from other laws and regulations aimed at protecting democratic freedoms and processes.*

They suggest that two relevant such benchmarks in the context of the European Union could be the 2024 Regulation on Transparency and Targeting of Political Advertising (RTPA) or the 2022 Digital Services Act (DSA). The RTPA contains numerous provisions related to potential harms to democracy from digital platforms, such as the targeting of political advertising. Similarly, the DSA concerns a range of potential issues in an online environment, such as disinformation and manipulation. Conduct by a dominant firm that lessened competition but also had the potential to cause harm in relation to prohibitions under these regulations could be targeted.

Such an approach appears to be a relatively modest departure from 'business as usual' and may share some similarities to the discussion above regarding using a democracy lens to prioritise. Some questions remain regarding how such an approach would work in practice. In particular, it is unclear on the extent to which it would add substantially different outcomes to current practice. Further, as these provisions already exist, there may be only minimal additional value in pursuing similar angles through competition law.

Box 3. Bundeskartellamt Meta case

Introduction

The Bundeskartellamt (BKA), initiated a case against Meta (formerly Facebook) in 2019, marking a significant moment in the application of competition law to the digital economy. The BKA's investigation focused on whether Meta's data collection and usage practices constituted an abuse of its dominant market position within the German social media sector.

Meta, with its extensive user base across platforms like Facebook, Instagram, and WhatsApp, was found by the BKA to hold a dominant position in the market. The key focus of BKA's case was that Meta exploited this dominance by requiring users to consent to the broad collection and integration of their personal data across its services and third-party websites as a condition for using its platforms. The BKA argued that this practice stifled competition and was detrimental to consumers, who had little choice but to agree due to Meta's market power.

In 2019, the BKA ruled that Meta's practices were abusive under the German Competition Act, ordering Meta to alter its data collection methods. Specifically, the BKA required Meta to cease combining user data from different sources unless explicit, informed consent was obtained from users. Meta contested this ruling, leading to a series of legal challenges.

Initially, the Higher Regional Court of Dusseldorf sided with Meta, questioning the BKA's authority to address data privacy under competition law. However, in a reversal decision, the German Federal Court of Justice (BGH) in June 2020 upheld BKA's decision, reinforcing the idea that a company with a dominant market position has an elevated responsibility to maintain fair competition. The BGH's ruling confirmed that the BKA could indeed intervene where data practices had a competitive impact on the broader consumer environment.

GDPR Element

Central to the BKA's case was the intersection of competition law and data privacy, particularly concerning the European Union's General Data Protection Regulation (GDPR). On appeal from Meta, the Court of Justice of the European Union (CJEU) ruled that the BKA may take data protection rules into consideration when weighing interests in decisions under competition law. The BKA argued that Meta's extensive data collection practices constituted an abuse of market dominance, as users had no viable alternative but to accept Meta's terms due to the company's overwhelming market presence.

Under the GDPR, personal data processing must be lawful, transparent, and limited to what is necessary for the specific purposes. The BKA contended that Meta's practices violated these principles by coercing users into accepting data collection that extended beyond what is necessary for the basic operation of its services. This coercion, according to the BKA, not only infringed upon users' data rights but also distorted competition by preventing smaller competitors from gaining a foothold in the market.

By framing the GDPR violations as an abuse of market dominance, the BKA introduced a novel approach to competition enforcement, by merging data protection concerns with antitrust principles. This case highlights how competition law can be leveraged to address data privacy issues and ensure a fairer digital marketplace.

Source: Bunderskartellamt (2019), Decision B6-22/16 – Facebook, https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Fallberichte/Missbrauchsaufsicht/2019/B6-22-16.html; Federal Court of Justice (2020), Case No. KVR 69/19 – Facebook, https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/BGH-KVR-69-19.html?nn=48888; Bunderskartellamt (2023), Press Release: *CJEU decision in Facebook proceeding: Bundeskartellamt may take data protection rules into consideration*, https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/04_07_2023_EuGH.html.

3.2.3. Approaches that focus on concentration or economic power

Another category of approaches is those that seek to refocus competition law on concentration rather than efficiency. When taken beyond general calls for stronger enforcement, such arguments could be categorised as wanting to change the consumer welfare standard to a protecting competition standard (OECD, 2023[2]).[66] Under such a standard, increased firm concentration would be resisted, even if that could lead to worse outcomes for consumers, for example through reduced efficiency. Conduct that lessens competition is also more likely to be deemed anticompetitive, with less consideration given to potential offsetting efficiencies. As such, these approaches may have less focus on case specific economic analysis.

The argument for such an approach with regard to competition's potential effect on democracy is that it may more directly tackle the accumulation of economic power. As argued by (Teachout, 2023[50]) , the attraction of such an approach is likely to hinge on the extent to which one values concerns about private sector threats to freedom over the importance of economic efficiency.

There are doubts in some quarters as to whether such an approach would lead to materially different outcomes than a consumer welfare standard without an overly strict burden of proof (Shapiro, 2021[51]). The difference between such an approach and a consumer welfare standard will be larger the greater the extent to which economic power is correlated with concentration, but not market power. If this were the case, recalibrating competition law to focus more on plurality of choice and market concentration may increase its ability to reduce economic power. However, even under such a standard there would likely still be ways for firms to grow large, particularly if they were able to do so organically or through international expansion.

Outside the traditional field of competition law, there may also be direct measures that can seek to control concentration. One such example can be seen from Israel, which has established a separate legal regime whereby a committee can rule on the effects of concentration in the economy, beyond traditional competition law but incorporating input from the competition agency. Box 4 provides further details on this approach.

More broadly, others argue for a more general refocus of competition policy on economic power rather than market power. In her book 'Competition is killing us', (Meagher, 2020[52]) notes that the definition of significant market power as defined in the 2018 European Commission guidelines in the telecoms sector could be a starting point for this discussion, with some adaptations made for political and economic power.[67]

Another potential approach would be regulations that sought to adjust the behavioural parameters for firms that obtain a certain level of economic power. As an illustration, these could be similar to the Concentration Law in Israel or ex-ante competition regulations in digital markets that designate some firms as subject to special provisions. In theory, such schemes could be expanded to also consider the conduct of firms in relation to obtaining political power, such as lobbying. However, introducing additional regulations inevitably involves significant risks and this appears to be an area of little practice to date.

Approaches that focus on concentration or economic power are not without disadvantages and any change would need to be carefully considered alongside potential harms (OECD, 2023[2]). Reducing the focus on outcomes for consumers could lead to worsened consumer outcomes in terms of price, quality or innovation, as well as more generally for economic efficiency across an economy.[68] With less focus on case specific economic analysis, there may be an increased risk of over enforcement that limits economic efficiency. This could reduce productivity and economic growth, potentially leading to reductions in living standards. The importance of scale to achieve efficiency is also likely to be an important aspect of this debate. For example, smaller economies may be more dependent on scale to achieve competitiveness in their industries and may be more willing to tolerate increased concentration to achieve it.

Some have even argued that such approaches are not democratic, leading to centralised political power that reduces individual freedoms (Lambert and Cooper, 2023[53]). Under such a lens, restricting the economic freedom of companies should be based on rigorous economic evidence and clear harms, rather than what could be considered arbitrary notions of competition.

Box 4. Israeli Concentration Law

Introduction to the law

The Law for Promotion of Competition and Reduction of Concentration (Concentration Law), enacted in 2013, aims to reduce economy-wide market concentration and to promote competition in various sectors of the Israeli economy. The Concentration Law was part of broader efforts to foster competition and reduce the influence of a small number of business groups that controlled significant portions of financial and non-financial assets. These groups are often organised in complex multi-tiered corporate structures, hold controlling shares in multiple sectors, limiting competition and contributing to economic inequality. The Concentration Law, based on the recommendations from the Government Committee to Increase Competitiveness, identified these structures as a threat to the financial system resilience, competition levels, and public investors' interest.

Prior to the enactment of Concentration Law, there were public campaigns against economic power and the dangers it posed to the Israeli society and democracy. As the campaign grew, it attracted major public attention, which may have partly led to the consideration of a new law.

The Concentration Law consists of three parts. First, the allocation of public assets/rights. This creates an obligation on government ministries to consider economy-wide concentration and industry-specific competition when allocating public assets/rights to firms. The Committee for the Reduction of Concentration (Committee) oversees these considerations, consisting of General Director of the Israel Competition Authority acting as its chairperson, the Director General of the Ministry of Finance or the Head of the Economy Department at the Ministry of Finance and the Head of the National Economic Council (of one of his/her deputies). Second, limiting pyramidal structures. This aspect of the law restricts the control of business groups to own only two layers of companies (that is, a parent company can control one company, and that company can control one more, but no more), thereby simplifying their ownership structure. Third, separation of financial and non-financial ownership. The law requires the separation between large financial entities (for example, bank, brokerage and insurance company) and large non-financial entities (for example, industry or services company).

Example 1: Allocation of "Block 72" gas and oil exploration license to the Tshuva Group

In 2021, the Committee recommended to the Director General of Petroleum Affairs to reject Tshuva Group (via its subsidiary, the Delek Group) and Chevron's proposal in a competitive process for the "Block 72" gas and oil exploration license, for reasons of economy-wide concentration. At the time of the proposal, the Tshuva Group controlled more than half of the natural gas production sector (primarily through its ownership in the Leviathan Reservoir, the largest natural has reservoir in Israel) – a concentrated entity. The Committee was concerned that the "Block 72" license would increase the Tshuva Group's bargaining power and its ability to influence the government.

Example 2: Privatisation of the Israel Postal Company

In 2021, the Government Companies Authority sought the recommendation of the Committee regarding the participation of Neopharm Limited (Neopharm) of Bezeq Group (Israel's largest internet and phone infrastructure corporation) in the sale process for the ownership of 20% shares in the Israel Postal Company.

The Committee recommended to allow the participation of Neopharm in the tender for the sale of Israel Postal Company's shares for reasons of economy-wide concentrations. The Committee noted that Neopharm did not have ownership in essential infrastructure. Furthermore, Neopharm's influence of the

Bezeq Group was also noted to be limited, as Neopharm had no veto rights or the ability to block a resolution of the majority.

Source: Israel Competition Authority (2013), *Law for Promotion of Competition and Reduction of Concentration*, https://www.gov.il/en/pages/concentrationlaw; Israel Competition Authority (2017), Methodology for Evaluating Economy-Wide Concentration, https://www.gov.il/en/pages/methodologyconcentration; OECD (2018), *Market Concentration*, OECD Publishing, Paris, 7231c298-en.pdf (oecd-ilibrary.org); OECD (2022), *Annual Report on Competition Policy Developments in Israel*, https://one.oecd.org/document/DAF/COMP/AR(2022)18/en/pdf; Haaretz (2013), *What is Israel's New Business Concentration Law and Why Should We Care?*, https://www.haaretz.com/israel-news/business/2013-12-29/ty-article/q-a-on-business-concentration-law/0000017f-db5f-d3ff-a7ff-fbff50b00000.

3.2.4. Direct consideration of democracy

At the other spectrum of possible approaches, are those that would see democracy take a more direct role in competition enforcement, forming an intrinsic part of the assessment. Within such a category, a wide variety of approaches are possible. Considering democracy directly within a competition law framework may have similarities with other potential broadenings of competition law, for example to consider the environment or labour market issues, even if the nature of the assessment itself may differ.

As above, such an approach would likely require a change of standard for competition law away from consumer welfare, where democracy is explicitly identified as an objective against which to assess competition law, as opposed to just the outcomes for consumers. While few competition regimes focus exclusively on consumer welfare (OECD, 2023[2]), in practice there are only a few examples of set-ups which have the potential to assess outcomes in relation to the effect on democracy.

An example of such an approach would be regimes that apply a more general citizen welfare or broad public interest tests.[69] Such a regime can work in various ways but allow an agreement or transaction to be assessed taking into account a range of public benefits. They could apply to a wider range of circumstances. Perhaps the most obvious area for such a regime to be implemented could be in mergers, where the decision to approve a transaction would also consider its potential impact on democracy. Hypothetically, such an assessment might result in the prohibition of mergers that created a large firm with enhanced economic power, even if it did not lessen competition to the detriment of consumers in individual markets. Such considerations could also be broadened to consider other forms or conduct. The impact of such an approach is hard to predict but could warrant a reconsideration of a range of factors, including filing thresholds and information collection.

Another example can be found in the authorisation regimes used by some countries.[70] Functioning as narrow versions of public interest regimes, an agreement or transaction can be approved even if there is a substantial lessening of competition, if other public benefits offset this. These public benefits could be broad, and potentially include factors that benefit democracy, even if it is unclear if this has occurred in practice. However, such approaches apply only when the firm or firms in question make an application for their conduct to be assessed for authorisation and so do not provide a general mechanism for intervention based on potential harms relating to democracy.

Identifying practical examples when the above approaches would lead to different outcomes compared to the status-quo is challenging. (Cowgill, Prat and Valletti, 2022[26]) suggest that it could be worthwhile to directly incorporate concerns about lobbying power into merger guidelines. Similarly, (Willis and Millington, 2022[54]) argue that democracy is a non-economic factor that should be considered in competition law. Nonetheless, if such an approach were to be considered, a careful analysis of how it may have led to more beneficial outcomes in the past should be undertaken.

As discussed in detail in (OECD, 2023[2]), complex standards likely present significant challenges. It is likely easier said than done to incorporate consideration of democracy into a competition assessment.

When administering them in practice, it is difficult to identify when a situation may affect democracy. Evidence would have to be gathered to understand the effect, such as data on lobbying spend or political donations, although it is hard to predict what might be necessary. Alternatively, rules of thumb may need to be employed, such as having a red line for the size of a firm relative to GDP. Such an approach would raise risks of affecting business dynamisms and efficiency, while having to hope it was set at the right level to prevent harm. As explained above, this could lead to reduced living standards or reduced international competitiveness for domestic industries.

Another significant challenging aspect of such an approach would be its likely effect on predictability (OECD, 2023[2]). By incorporating a broader set of considerations, it is likely that assessments will become more complex and difficult for firms to predict in advance. Such uncertainty may have detrimental effects on incentives to invest and affect overall efficiency. As well as being complex and harder to predict, another challenge to these approaches is the need for previously focused competition officials to now make potentially multifaceted assessments across a range of factors, many of which may be political. As decisions became more substantial and had broader implications on the shaping of society, this could ironically increase the risk of undemocratic outcomes itself.

4 Conclusion

Democracy can have many effects on competition, including on the implementation of competition policy. It appears likely that citizens in many jurisdictions would prefer markets that are competitive, and this provides a legitimacy for competition policy within democracies. There are also likely to be benefits to competition from democracy, and this relationship may be best examined through the lens of the risks to competition of non-democratic governance structures. How competition law is enacted within a democracy is now well-established, although it should continue to ensure it aligns broadly with public sentiments and supports efforts to promote trust in public institutions.

Despite a long tradition of association, democracy is not a factor that many competition authorities factor into their day-to-day decision making. However, that does not mean that competition is not relevant for the maintenance of healthy democracy. Indeed, this tradition was a core part of the motivation for introducing antitrust laws in the first place.

There are several links between competition and democracy. Perhaps the main direct link is the potential for reduced competition to allow firms to acquire economic power, which can provide the means to wield political power contrary to democratic will. There are various mechanisms through which the economic power could transition into political power, as large firms with significant financial resources utilise tools such as lobbying, political donations or research production to influence a range of political processes, such as regulations. It is clear that competitive markets present a reduced risk of distorted democracy compared to limited competition.

The link between competition and economic power is however complex. While in general more competition is likely to reduce economic power, the relationship may not always hold if competition is viewed purely through the lens of consumer outcomes. For example, large and efficient firms may lead to better outcomes for consumers, but also lead to greater concentration at a corporate level and more economic power. There is currently little conclusive evidence on the harm to democracy from reductions in competition. Given the potential trade-off with consumer outcomes, further research in this area is crucial, notwithstanding the empirical challenges involved.

In addition to these links, there are several indirect links between competition and democracy. Competition may also affect factors such as inequality and corruption, both of which then have an impact of democracy. Further, competition in some markets may have a more direct effect on democracy than others. This is particularly the case for markets that serve to reinforce democratic functions, such as the provision of information and news production. Media markets and digital platforms are examples of such markets and are areas where a broader definition of competition such as plurality is not uncommon.

With uncertainty regarding the exact link between competition and democracy, it is difficult to argue for the need to make changes across jurisdictions. Nonetheless, in the context of evidence of rising concentration and a sense of democracy being under threat, further research may be needed. The paper outlines a framework within which to consider if a case for change is met. In particular, as well as being confident in the link between competition and democracy, a change in approach must bring better outcomes for democracy while not introducing additional costs that outweigh its benefits. The paper has discussed different approaches for competition policy to consider democracy more thoroughly, such as supplementary regimes that consider concentration or broader standards of assessment that directly consider harms to democracy within enforcement. There may also be more modest reforms that seek to target enforcement to reduce harm to democracy without systematic change.

While it may be too soon to revolutionise competition policy, the case that there are at least some benefits to democracy from increased competition appears a fairly easy one to make. With many clear and evidenced benefits of vibrant competition, this in itself provides just one more for robust and resourced competition policy to champion and preserve competition.

Endnotes

[1] Speech by Executive Vice-President Margrethe Vestager at the Open Markets Institute event "Fixing the Information Crisis Before It's Too Late (For Democracy)", 27 June 2024, https://ec.europa.eu/commission/presscorner/detail/en/speech_24_3516

[2] See for example (Hiebert, 2023[67]). As another example, the Economist Newspaper's Economist Intelligence Unit developed an index for democracy, which in 2023 was at its lowest value since it began in 2006. See https://www.eiu.com/n/campaigns/democracy-index-2023/

[3] For example, see (Teachout, 2023[50]), (Meagher, 2020[52]) or (Wu, 2018[34]).

[4] See https://web-archive.oecd.org/2018-02-07/447594-democracy-and-competition.htm

[5] In addition to many other benefits, such as better outcomes for consumers, increased productivity and innovation, amongst others.

[6] For example, (Bernatt, 2024[42]) argues that a more specific definition of democracy beyond majoritarian rule is required to fully explore its interactions with competition. He argues that a range of institutional and organisational principles are also relevant, such as the protections for fundamental rights, the separation of powers, checks and balances on power and the respect for rule of law. Another aspect of democracy that may be relevant to the relationship between competition and democracy is the concept of individual freedom or liberty. For example, (Deutscher, 2022[11]) argues that it is important to distinguish between classical liberty and republican liberty, with the latter being concerned not just with actual limits on liberty but also potential limits, in order to fully explore the links between competition and democracy.

[7] https://www.oecd.org/en/about/legal/trust-in-global-cooperation-the-vision-for-the-oecd-for-the-next-decade.html

[8] OECD/LEGAL/0484, Declaration on Building Trust and Reinforcing Democracy, adopted on 18/11/2022, Council informed on 09/12/2022, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0484

[9] OECD/LEGAL/0379, Recommendation of the Council on Transparency and Integrity in Lobbying and Influence, adopted 18/02/2010 and amended 03/05/2024, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0379

[10] OECD/LEGAL/0438, Recommendation of the Council on Open Government, adopted 14/12/2017, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438#supportDocuments

[11] OECD/LEGAL/0484, Declaration on Building Trust and Reinforcing Democracy, adopted on 18/11/2022, Council informed on 09/12/2022, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0484

[12] Directional in the sense that more competition would lead to better or worse democratic functioning.

[13] In reality of course, how public sentiment at any given time affects policy is likely to be more complicated.

[14] As discussed in the next section, market-based economies are not limited to democracies.

[15] Holding all else constant. There are many other factors to consider in society than the state of competition.

[16] The model assumes that competition drives more quality which requires more effort from workers, which has a cost to them. The paper builds on an earlier model developed in (Kahloul et al., 2017[57]).

[17] For example, it only considers a duopoly compared to monopoly and does not consider dynamic benefits of competition.

[18] For example, analysis by (Reuten, 2023[85]) suggest that in the OECD in 2019, the top 10% of households owned 68% of the total financial assets and 85% of the total capital-ownership assets.

[19] Over 80% of respondents agreed with the goals of more choice and encouraging innovation and economic growth, while over 70% agreed with the goals of lowering prices, allowing for higher quality goods and services, encouraging the digital transformation and helping companies become more competitive on global markets.

[20] There are even strands that consider the impact of religion on the views of competition, with debate amongst some scholars on how much of the development of competition law can be attributed to Protestantism. (Hayward and Kemmelmeier, 2007[69]) summarise some of this debate.

[21] OECD/LEGAL/0465, OECD Recommendation of the Council on Transparency and Procedural Fairness in Competition Law Enforcement, adopted 06/10/2021, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0465

[22] Such concerns may also apply to other areas of devolved public policy, and it is unclear if competition policy exhibits any traits that make this more or less likely to occur compared to those other areas.

[23] They do however note that it is not inevitable that a technocratic approach would lead to lower levels of enforcement of competition policy.

[24] See section Do citizens prefer competition?

[25] It is harder to find literature arguing that competition policy, or at least a form of it that the author in question prefers, is not beneficial for democracy.

[26] Crane does note that most of the conduct that led to the economic concentration would almost certainly not be allowed under current antitrust practice. As such, Crane cautions against arguing that this example provides evidence for a need to change current policies.

[27] See, for example, (Calligaris et al., 2024[1]), (Calligaris, Criscuolo and Marcolin, 2018[72]) or (Loecker and Eeckhout, 2018[73]).

[28] See endnote 2. Further, the OECD's Reinforcing Democracy Initiative notes that "Democracies are under unprecedented levels of internal and external pressures". For more on the initiative, see https://www.oecd.org/en/about/programmes/reinforcing-democracy-initiative.html.

[29] Measurement error in key variables will bias estimates towards zero, making it more difficult to establish a relationship even if one exists.

[30] As noted elsewhere in the paper, measuring democracy is not straightforward. Petersen uses the Polity IV score which classifies political systems based on their executive recruitment, the constraints on the execution of executive power and the amount of political competition.

[31] Often defined broadly to capture customers across a value chain, including business customers, as well to include a range of factors, such as higher prices, lower quality or reduced innovation, over the short and long term.

[32] It is related to pluralism or choice, which refers to the number of independent operators available within a market, focussing less on their share of supply.

[33] There is likely to still be some correlation between them as, for example, a highly concentrated number of firms across an entire economy may also imply high concentration within markets in that economy, and potentially lower levels of competition.

[34] Note that the ability to do so does not necessarily mean that it is acted upon. (Amato, 1997[19]) refers to liberal democracy as it arises from the traditions of John Locke. (Amato, 1997[19]) (page 3) provides the following quote from John Locke's Two Treaties of Government: "To understand political power aright, and derive it from its original, we must consider, what state men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another".

[35] In a recent paper, (Callander, Foarta and Sugaya, 2022[59]) develop a model that explores the circularity between markets and politics, where they focus on market power rather than economic power. In this model, policymakers can provide protection to firms with market power in exchange for a fee. The model suggests positive feedback between market power and political power, albeit one that has its limits. Such a setting assumes that a policy maker can alter regulations to cement market power for that particular firm. Over a broader scale, it may be that economic power would need to be considered in addition to market power.

[36] A degree of market power is required if considered the ability to price consistently above marginal costs, as absent this there would be no profit. It is difficult to consider it likely that there would be significant economic power without the accumulation of profits.

[37] Other factors may also provide firms with economic power, such as being active in the supply of goods or services of high economic or strategic importance. In such instances, firms with market power in such industries may hold a level of economic power.

[38] As above, these markets would need to not be perfectly competitive such that no profit was derived from the activity.

[39] The assessment of market power is likely to consider a range of factors. Further, the assessment of economic power is likely to consider factors other than pure profit, such as the number of employees depending on the firm or the percentage of trade within an economy that it accounts for.

[40] It may not be necessary for the accumulation of economic power to be exerted as political power for it to pose a threat to democracy. The possibility of others having the ability to arbitrarily exert power over others, even if not undertaken in practice, may be enough if one adopts of republican view of liberty (Deutscher, 2022[11]). Under this view of liberty, the potential infringement on the freedoms of another is contrary to liberty, even absent any manifestation of limiting freedoms in practice.

[41] In the United States for example, the Noerr-Pennington doctrine provides exemptions in general from liability from antitrust law due to conduct relating to attempts to influence laws, even if intended to lessen competition, based partly on the protections granted to the protection of political speech in the First Amendment.

[42] OECD/LEGAL/0379, OECD Recommendation of the Council on Transparency and Integrity in Lobbying and Influence, adopted 18/02/2010 and amended on 03/05/2024. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0379

[43] More generally, economic power could lead to political power through the ability to better advocate. The extent to which businesses are able to influence policy and rule-making is subject to significant debate. Analysing thirty public comment procedures regarding bureaucratic rules in the US between 1994 and 2001, (Yackee and Yackee, 2006[64]) suggests that business interests had a disproportionate influence over rulemaking outputs compared to the broader public. Of course, there are many legitimate reasons that businesses may wish to advocate on rule-making, having a particular interest in commenting as a heavily affected party or being in possession of uniquely enlightening information.

44 This would also be affected by the marginal benefit of the lobbying, in particular whether there are diminishing or increasing returns.

45 Expenditure on lobbying has increased in some sectors in recent years, not least in digital markets where it is also concentrated between few firms (OECD, 2021[66]).

46 Several studies illustrate the value for firms of political connections and lobbying expenditure, such as (Borisov et al., 2016[76]), (Cooper, Gulen and Ovtchinnikov, 2010[77]) and (Alexander, Mazza and Scholz, 2009[78]). These have been shown as relevant across a range of countries, for example (Amore and Bennedsen, 2013[74]) or (Diegmann, Pohlan and Weber, 2024[75]). For a close to home example, (Fidrmuc, Roosenboom and Zhang, 2018[70]) find evidence that lobbying can have a beneficial effect on the likelihood of merger activity receiving a more favourable outcome. (Mehta et al., 2020[71]) find similar results. Further, there is evidence of different groups being more influential on policy outcomes, such as economic elites and interest-groups (Gilens and Page, 2014[68]).

47 Compared to the total lobbying spend by both the target and acquirer pre-merger. There is no statistically significant evidence in relation to campaign contributions. They combine data on firms registered with the Securities and Exchange Commission between 1999 and 2017 with merger and acquisition data and federal lobbying. They also consider political campaign contributions.

48 They use a dataset of federal lobbying in the US between 1997 and 2017, which they updated from an existing dataset.

49 The key difference between this study and the previous is the focus on relative rather than absolute lobbying spend as a proxy for political power.

50 Which the authors describe as the political and economic elite.

51 The political economy literature has explored many of these interactions, for example in (Maxfield and Schneider, 1997[79]) and (Evans, 1995[80]).

52 However, it is unclear that transparency would fully reduce this risk. There may be concern that unbalanced financial resources between private and public organisations leads to a natural bias towards private interests when there is uncertainty, even if there is transparency over funding for research or advocacy. For example, (Valetti, 2020[86]) argues that such issues have affected discussions around competition policy.

53 For example, (Fang, 2013[82]) discusses the role of academics also holding positions in consultancy businesses potentially affecting their objectivity. Similarly, in a special report for Reuters, (Flitter, 2010[83]) identifies the corporate links between some professors and businesses. Accusations have also been made in the field of competition, with a recent Wall Street Journal series alleging influence on academics by major firms (Mullins, 2024[65]).

54 Assistant Attorney General Jonathan Kanter Delivers Remarks for the Fordham Competition Law Institute's 51st Annual Conference on International Antitrust Law and Policy, 12 September 2024, https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-remarks-fordham-competition-law-0

55 (Ezrachi, Zac and Decker, 2021[39]) provides a helpful summary of the literature in this area. Further, (Colciago and Mechelli, 2020[81]) models reductions in competition and suggests that it could account for 11% to 22% of the increase in US income inequality between 1989 and 2007. (Ennis, Gonzaga and Pike, 2017[61]) similarly shows how increased market power can lead to higher inequality.

56 See, for example, (Stiglitz, 2023[62]).

[57] Some evidence suggesting that increased competition leads to pressures to reduce in corruption (OECD, 2014[88]). On the other hand, another strand of literature suggests that there may be a positive relationship between the two, with competition between firms driving more frequent and higher levels of bribery (Varvarigos and Stathopoulou, 2023[63]).

[58] Under such approaches, there may be various arrangements that look beyond consumer welfare in particular media markets, and also consider the impact of a transaction on the plurality of media ownership (OECD, 2021[44]). For example, the UK has a specific Media Public Interest Test to consider the effect of transactions on media plurality. Such concerns are not uniquely considered within the framework of competition law however, and some countries have established separate regulatory regimes to consider the pluralism of views in media, such as France.

[59] For example, see the Australian News Media Bargaining Code, https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code.

[60] More difficult does not mean that such concerns are invalid, however. For example, there may be concerns about product market or regional specific political processes such as the development of regulations.

[61] Meaning that democracy is rarely considered as a pivotal factor in the outcome of a case.

[62] As discussed at several points in the paper, the extent to which it does this effectively is subject to debate.

[63] Speech by Executive Vice-President Margrethe Vestager at the Open Markets Institute event "Fixing the Information Crisis Before It's Too Late (For Democracy)", 27 June 2024, https://ec.europa.eu/commission/presscorner/detail/en/speech_24_3516

[64] This would mean that there are undetected or unchallenged breaches of the law that reduce competition.

[65] See upcoming discussion at the OECD Competition Committee in December 2024 on the Burden of Proof in Competition Law.

[66] For a more detailed discussion of the relative advantages and disadvantages of different standards, see (OECD, 2023[2]) .

[67] The Guidelines refer to a range of criteria that are relevant to the assessment of market power, including the absolute and relative size of the undertaking, and easy or privileged access to capital markets and financial resources. See: European Commission, Guidelines on market analysis and the assessment of significant market power under the EU

regulatory framework for electronic communications networks and services, 7 May 2018, https://digital-strategy.ec.europa.eu/en/library/communication-smp-guidelines

[68] On the other hand, there are arguments that these approaches are not necessarily counter to consumer welfare. For example, (Deutscher, 2022[11]) argues such approaches could actually improve consumer welfare if there were consumer "free-riding" on cheaper products which led to an under provision of choice compared to underlying preferences. There does not appear to be evidence to support this contention, however.

[69] One of the most commonly cited examples of such a regime can be found in South Africa, which has substantial practice in the application of public interest tests in merger control and more recently in other areas of enforcement.

[70] Two countries that possess regimes of this nature are Australia and New Zealand. Under these systems, companies can apply for authorisation for agreements or mergers that may be anti-competitive but nonetheless to the public benefit. More information on authorisations in Australia can be seen here:

https://www.accc.gov.au/business/competition-and-exemptions/exemptions-from-competition-law/authorisation . For more information on Authorisations in New Zealand, see: https://comcom.govt.nz/business/merging-or-acquiring-a-company/authorising-anti-competitive-transactions-that-will-likely-benefit-new-zealand

References

Acemoglu, D. et al. (2019), "Democracy does cause growth", *Journal of Political Economy*, Vol. 127/1, pp. 47-100, https://doi.org/10.1086/700936/SUPPL_FILE/2014340DATA.ZIP. [60]

Alexander, R., S. Mazza and S. Scholz (2009), "Measuring Rates of Return for Lobbying Expenditures: An Empirical Case Study of Tax Breaks for Multinational Corporations", *SSRN Electronic Journal*, https://doi.org/10.2139/SSRN.1375082. [78]

Allen, M. and K. Scheve (2022), "Sustaining Capitalism and Democracy: Lessons from Global Competition Policy", *International Studies Review*, Vol. 24/2, https://doi.org/10.1093/ISR/VIAC018. [20]

Amato, G. (1997), "Antitrust and the bounds of power : the dilemma of liberal democracy in the history of the market", p. 133, https://cadmus.eui.eu/handle/1814/28819 (accessed on 24 April 2024). [19]

Amore, M. and M. Bennedsen (2013), "The value of local political connections in a low-corruption environment", *Journal of Financial Economics*, Vol. 110/2, pp. 387-402, https://doi.org/10.1016/j.jfineco.2013.06.002. [74]

Bagley, N. (2021), *The Procedure Fetish*, Niskanen Centre, https://www.niskanencenter.org/the-procedure-fetish/. [16]

Bajgar, M. et al. (2019), "Industry Concentration in Europe and North America", OECD Productivity Working Papers, https://doi.org/10.1787/2ff98246-en. [87]

Baker, J. (2019), "The antitrust paradigm : restoring a competitive economy", p. 349, https://www.hup.harvard.edu/books/9780674975781 (accessed on 9 September 2024). [22]

Becker, G. (1958), "Competition and Democracy", *Source: The Journal of Law & Economics*, Vol. 1, pp. 105-109. [55]

Bernatt, M. (2024), "Democracy and Competition Law: Exploring Substantive and Procedural Links", *SSRN Electronic Journal*, https://doi.org/10.2139/SSRN.4757822. [42]

Borisov, A. et al. (2016), "The Corporate Value of (Corrupt) Lobbying", *The Review of Financial Studies*, Vol. 29/4, pp. 1039-1071, https://doi.org/10.1093/RFS/HHV048. [76]

Brezzi, M. et al. (2021), "An updated OECD framework on drivers of trust in public institutions to meet current and future challenges", *OECD Working Papers on Public Governance*, No. 48, OECD Publishing, Paris, https://doi.org/10.1787/b6c5478c-en. [30]

Callander, S., D. Foarta and T. Sugaya (2022), "Market Competition and Political Influence: An Integrated Approach", *Econometrica*, Vol. 90/6, pp. 2723-2753, https://doi.org/10.3982/ECTA19775. [59]

Calligaris, S. et al. (2024), *Industry concentration in Europe: Trends and methodological insights*, OECD Science, Technology and Industry Working Papers, https://doi.org/10.1787/c4c371fb-en. [1]

Calligaris, S., C. Criscuolo and L. Marcolin (2018), "Mark-ups in the digital era", *OECD Science, Technology and Industry Working Papers*, No. 2018/10,, OECD Publishing, https://www.oecd-ilibrary.org/industry-and-services/mark-ups-in-the-digital-era_4efe2d25-en (accessed on 17 October 2022). [72]

Colciago, A. and R. Mechelli (2020), "Competition and Inequality", Vol. Working Paper No. 689/De Nederlandsche Bank, https://www.dnb.nl/media/dy1ppvaz/working-paper-no-689_tcm47.pdf (accessed on 2 September 2024). [81]

Cooper, M., H. Gulen and A. Ovtchinnikov (2010), "Corporate Political Contributions and Stock Returns", *The Journal of Finance*, Vol. 65/2, pp. 687-724, https://doi.org/10.1111/J.1540-6261.2009.01548.X. [77]

Cowgill, B., A. Prat and T. Valletti (2022), "Political Power and Market Power *", *SSRN Electronic Journal*, https://doi.org/10.2139/ssrn.4390776 (accessed on 10 March 2023). [26]

Crane, D. (2021), "Antitrust and Democracy", Universidad Adolfo Ibánez Centro Competencia, https://centrocompetencia.com/wp-content/uploads/2021/01/Crane_Antitrust-and-democracy.pdf. [18]

Crane, D. (2020), "Fascism and Monopoly", *Michigan Law Review*, Vol. 118/7, pp. 1315-1370, https://doi.org/10.36644/mlr.118.7.fascism. [23]

Cseres, K. (2024), "The Role of Independent Competition Authorities as Quasi-Courts in Defending Rule of Law Values in Europe", *SSRN Electronic Journal*, https://doi.org/10.2139/SSRN.4946262. [17]

Cseres, K. (2022), "EU Competition Law and Democracy In The Shadow Of Rule Of Law Backsliding", *Amsterdam Law School Legal Studies Research Paper*, https://ssrn.com/abstract=4032499 (accessed on 5 June 2024). [56]

Deutscher, E. (2022), "The competition-democracy nexus unpacked-competition law, republican liberty, and democracy", *Yearbook of European Law*, Vol. 41, https://doi.org/10.1093/yel/yeac003. [11]

Diegmann, A., L. Pohlan and A. Weber (2024), "Do politicians affect firm outcomes? Evidence from connections to the German Federal Parliament", *ZEW Discussion Papers*, https://ideas.repec.org/p/zbw/zewdip/300014.html (accessed on 8 October 2024). [75]

Emerson, P. (2006), "Corruption, competition and democracy", *Journal of Development Economics*, Vol. 81/1, pp. 193-212, https://doi.org/10.1016/J.JDEVECO.2005.04.005. [41]

Ennis, S., P. Gonzaga and C. Pike (2017), "Inequality: A hidden cost of market power", OECD Competition Division, http://www.oecd.org/daf/competition/inequality-a-hidden-cost-of-market-power.htm (accessed on 31 March 2023). [61]

European Commission (2022), *Citizens' perceptions about competition policy*, Flash Eurobarometer 511, https://europa.eu/eurobarometer/surveys/detail/2654. [8]

Evans, P. (1995), “Embedded autonomy: States and industrial transformation”, *Embedded Autonomy: States and Industrial Transformation*, pp. 1-323, https://doi.org/10.2307/2077170. [80]

Ezrachi, A. and V. Robertson (2024), “Can Competition Law Save Democracy? Reflections on Democracy’s Tech-Driven Decline and How to Stop It”, *Journal of Antitrust Enforcement*, https://doi.org/10.1093/jaenfo/jnae043 (accessed on 5 June 2024). [45]

Ezrachi, A., A. Zac and C. Decker (2021), “Competition Law and Income Inequality: A Panel Data Econometric Approach”, *SSRN Electronic Journal*, https://doi.org/10.2139/SSRN.3402436. [39]

Fang, L. (2013), “The Scholars Who Shill for Wall Street”, *TheNation*, https://www.thenation.com/article/archive/scholars-who-shill-wall-street/. [82]

Fidrmuc, J., P. Roosenboom and E. Zhang (2018), “Antitrust merger review costs and acquirer lobbying”, *Journal of Corporate Finance*, Vol. 51, pp. 72-97, https://doi.org/10.1016/J.JCORPFIN.2018.05.001. [70]

First, H. and S. Waller (2013), “Antitrust’s Democracy Deficit”, *Fordham Law Review*, Vol. 81, http://www.foxnews.com/politics/2012/08/29/ (accessed on 5 June 2024). [14]

Flitter, E. (2010), “Special Report: For some professors, disclosure is academic”, *Reuters*, https://www.reuters.com/article/world/us/special-report-for-some-professors-disclosure-is-academic-idUSTRE6BJ3LF/. [83]

Fox, E. (2019), “Antitrust and Democracy: How Markets Protect Democracy, Democracy Protects Markets, and Illiberal Politics Threatens to Hijack Both”, *Legal Issues of Economic Integration*, Vol. 46/4, pp. 317-328, https://doi.org/10.54648/LEIE2019020. [4]

Ghazzai, H. et al. (2021), “Note on democracy and competition: The role of ownership structure in a general equilibrium model with vertical preferences”, *Revue d’Economie Politique*, Vol. 132/2, pp. 249-261, https://doi.org/10.3917/REDP.312.0081. [7]

Gilens, M. and B. Page (2014), “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens”, *Perspectives on Politics*, Vol. 12/3, pp. 564-581, https://doi.org/10.1017/S1537592714001595. [68]

Greer, D. (1988), “The Concentration of Economic Power”, *Market Power and the Economy*, pp. 53-81, https://doi.org/10.1007/978-94-009-2673-8_3. [35]

Hayward, R. and M. Kemmelmeier (2007), “How Competition Is Viewed Across Cultures”, *http://dx.doi.org/10.1177/1069397107306529*, Vol. 41/4, pp. 364-395, https://doi.org/10.1177/1069397107306529. [69]

Hewitt, G. (2004), “Media Mergers: Background Note”, *OECD Journal: Competition Law and Policy*, https://doi.org/10.1787/clp-v5-art16-en. [43]

Hiebert, K. (2023), “Preserving Liberal Democracy Requires Renewed Global Effort”, *Centre for International Governance Innovation*, https://www.cigionline.org/articles/preserving-liberal-democracy-requires-renewed-global-effort/. [67]

Hofstadter, R. (1965), “What happened to the antitrust movement?”, *The paranoid style in American politics and other essays*, No. 107. [15]

Kahloul, A. et al. (2017), "Democracy and competition: Vertical differentiation and labor in a general equilibrium model", *Journal of Public Economic Theory*, Vol. 19/4, pp. 860-874, https://doi.org/10.1111/JPET.12256. [57]

Kerr, W., W. Lincoln and P. Mishra (2014), "The Dynamics of Firm Lobbying", Vol. 6/4, pp. 343-379, https://doi.org/10.1257/poL6.4J43. [37]

Khan, L. (2018), "The Ideological Roots of America's Market Power Problem", *The Yale Law Journal Forum*, https://www.yalelawjournal.org/forum/the-ideological-roots-of-americas-market-power-problem (accessed on 28 March 2023). [84]

Khan, L. (2018), "The New Brandeis Movement: America's Antimonopoly Debate", *Journal of European Competition Law & Practice*, Vol. 9/3, pp. 131-132, https://doi.org/10.1093/JECLAP/LPY020. [21]

Lambert, T. and T. Cooper (2023), *Neo-Brandeisianism's Democracy Paradox*, https://papers.ssrn.com/abstract=4422661 (accessed on 5 June 2024). [53]

Lee, K. (2008), "Culture and Competition: National and Regional Levels", *Consumer L. Rev*, Vol. 33, http://lawecommons.luc.edu/lclr/vol21/iss1/3 (accessed on 9 September 2024). [9]

Loecker, J. and J. Eeckhout (2018), "Global Market Power", https://doi.org/10.3386/W24768. [73]

Ma, T. (2016), "Antitrust and Democracy: Perspectives from Efficiency and Equity", *Journal of Competition Law & Economics*, Vol. 12/2, pp. 233-261, https://doi.org/10.1093/JOCLEC/NHW001. [29]

Maxfield, S. and B. Schneider (1997), *Business and the state in developing countries*, Cornell University Press, https://www.cornellpress.cornell.edu/book/9780801484063/business-and-the-state-in-developing-countries/ (accessed on 30 October 2024). [79]

McCarty, N. and S. Shahshahani (2023), "Testing Political Antitrust", *New York University Law Review*, Vol. 98/4, https://perma.cc/V84P-PJC8] (accessed on 11 June 2024). [27]

Meagher, M. (2020), *Competition is killing us : how big business is harming our society and planet - and what to do about it*, Penguin Business. [52]

Mehta, M. et al. (2020), "The Politics of M&A Antitrust", *Journal of Accounting Research*, Vol. 58/1, pp. 5-53, https://doi.org/10.1111/1475-679X.12291. [71]

Mullins, B. (2024), "The Hidden Life of Google's Secret Weapon", *TheWallStreetJournal*. [65]

OECD (2024), "Artificial intelligence, data and competition", *OECD Artificial Intelligence Papers*, No. 18, https://doi.org/10.1787/e7e88884-en. [49]

OECD (2024), *Facts not Fakes: Tackling Disinformation, Strengthening Information Integrity*, OECD Publishing, Paris, https://doi.org/10.1787/d909ff7a-en. [46]

OECD (2024), "Monopolisation, Moat Building and Entrenchment Strategies", Best Practice Roundtables on Competition Policy, https://doi.org/10.1787/777faed3-en. [24]

OECD (2024), *OECD Survey on Drivers of Trust in Public Institutions – 2024 Results: Building Trust in a Complex Policy Environment*, OECD Publishing, Paris, https://doi.org/10.1787/9a20554b-en. [31]

OECD (2023), “The Consumer Welfare Standard - Advantages and Disadvantages Compared to Alternative Standards”, OECD Competition Policy Roundtable Background Note, https://one.oecd.org/document/DAF/COMP(2023)4/en/pdf. [2]

OECD (2023), *The OECD’s Contribution To Promoting Open Markets And A Rules based International Trading System In Good Working Order*, Meeting of the OECD Council at Ministerial Level, Paris, https://www.oecd.org/content/dam/oecd/en/events/2023/6/The-OECD-Contribution-to-Promoting-Open-Markets-and-a-Rules-Based-International-Trading-System-in-Good-Working-Order.pdf. [5]

OECD (2022), *Building Trust and Reinforcing Democracy: Preparing the Ground for Government Action*, OECD Public Governance Reviews, OECD Publishing, Paris, https://doi.org/10.1787/76972a4a-en. [58]

OECD (2021), “Competition issues in News Media and Digital Platforms”*, Best Practice Roundtables on Competition Policy*, https://one.oecd.org/document/DAF/COMP(2021)16/en/pdf. [44]

OECD (2021), *Lobbying in the 21st Century: Transparency, Integrity and Access*, OECD Publishing, Paris, https://doi.org/10.1787/c6d8eff8-en. [66]

OECD (2021), “Methodologies to Measure Market Competition”, https://www.oecd.org/daf/competition/methodologies-to-measure-market- (accessed on 26 September 2022). [32]

OECD (2020), *Competition in Labour Markets*, OECD Roundtables on Competition Policy Papers, https://doi.org/10.1787/66980788-en. [48]

OECD (2020), “Sustainability and Competition”, *OECD Roundtables on Competition Policy Papers*, http://www.oecd.org/daf/competition/sustainability-and-competition-2020.pdf (accessed on 13 March 2023). [47]

OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, OECD Publishing, https://doi.org/10.1787/9789264274198-en. [12]

OECD (2014), “Factsheet on how competition policy affects macro-economic outcomes”, http://oe.cd/J3 (accessed on 31 March 2023). [6]

OECD (2014), “Fighting corruption and promoting competition”*, Best Practice Roundtables on Competition Policy*, OECD, https://doi.org/10.1787/02b1b950-en. [88]

OECD (2014), *The Governance of Regulators*, OECD Publishing, OECD Best Practice Principles for Regulatory Policy,, https://doi.org/10.1787/9789264209015-en. [13]

Pena, J. (2023), “Cultural challenges to competition law enforcement in Latin America”, *Journal of Antitrust Enforcement*, https://doi.org/10.1093/JAENFO/JNAD041. [10]

Petersen, N. (2013), “Antitrust Law And The Promotion Of Democracy And Economic Growth”, *Journal of Competition Law & Economics*, Vol. 9/3, pp. 593-636, https://doi.org/10.1093/JOCLEC/NHT003. [28]

Reuten, G. (2023), “On the Distribution of Wealth and Capital Ownership; an Empirical Application to oecd Countries around 2019”, *Historical Materialism*, Vol. 31/4, pp. 90-114, https://brill.com/view/journals/hima/31/4/article-p90_3.xml?language=en. [85]

Roach, B. (2023), *Corporate Power in a Global Economy*, Global Development Policy Center, Boston University., https://www.bu.edu/eci/files/2023/09/Corporate-Power-Module.pdf. [33]

Robertson, V. (2022), "Antitrust, Big Tech, and Democracy: A Research Agenda", *Antitrust Bulletin*, Vol. 67/2, pp. 259-279, https://doi.org/10.1177/0003603X221082749/FORMAT/EPUB. [25]

Salop, S. and J. Baker (2015), "Antitrust, Competition Policy, and Inequality", *SSRN Electronic Journal*, https://doi.org/10.2139/ssrn.2567767. [40]

Shapiro, C. (2021), "Antitrust: What Went Wrong and How to Fix It", *Antitrust, American Bar Association*, Vol. 35/3, https://faculty.haas.berkeley.edu/shapiro/fixingantitrust.pdf. [51]

Showalter, R. (2021), "Democracy for Sale: Examining the Effects of Concentration on Lobbying in the United States". [38]

Stiglitz, J. (2023), *Inequality and Democracy*, https://www.project-syndicate.org/commentary/inequality-source-of-lost-confidence-in-liberal-democracy-by-joseph-e-stiglitz-2023-08. [62]

Teachout, Z. (2023), "Democracy and Law in the New American Antitrust", *SSRN Electronic Journal*, https://doi.org/10.2139/SSRN.4438486. [50]

Teachout, Z. and L. Khan (2014), "Market Structure and Political Law: A Taxonomy of Power", *Duke Journal of Constitutional Law & Public Policy*, Vol. 9/2, https://scholarship.law.duke.edu/djclpp/vol9/iss2/4 (accessed on 19 August 2024). [3]

Valetti, T. (2020), "'Doubt is Their Product': The Difference Between Research and Academic Lobbying", *Promarket*, https://doi.org/10.1080/09540962.2024.2404249. [86]

Varvarigos, D. and E. Stathopoulou (2023), "On the relation between corruption and market competition", *Economic Inquiry*, Vol. 61/1, pp. 99-121, https://doi.org/10.1111/ECIN.13113. [63]

Willis, E. and L. Millington (2022), "Competition Law And Non-Economic Considerations: The Particular Case Of Democracy", https://researchspace.auckland.ac.nz/handle/2292/61581 (accessed on 3 September 2024). [54]

Wu, T. (2018), "The Curse of Bigness: Antitrust in the New Gilded Age", *Faculty Books*, https://scholarship.law.columbia.edu/books/63 (accessed on 2 April 2023). [34]

Yackee, J. and S. Yackee (2006), "A bias towards business? Assessing interest group influence on the U.S. bureaucracy", *Journal of Politics*, Vol. 68/1, pp. 128-139, https://doi.org/10.1111/J.1468-2508.2006.00375.X. [64]

Zingales, L. (2017), "Towards a Political Theory of the Firm", *Source: The Journal of Economic Perspectives*, Vol. 31/3, pp. 113-130, https://doi.org/10.1257/jep.3L3.113. [36]

OECD