ANTI-TRUST IN A TIME OF GLOBAL CRISIS: AN AUSTRALIA PERSPECTIVE

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The theme of antitrust in crisis is very timely for the current global climate, but more so than ever for Australia where we had already dealt with unprecedented drought, bushfires and now the global COVID-19 pandemic. Not for a century have Governments had to manage a health and economic crisis of such intensity, scale or speed.

Part of the complexity in solving this dilemma, at least economically, lies in the numerous shifting battlegrounds being fought, based on conflicting views about market dynamics and values we wish to espouse in a COVID-19 and post COVID-19 world. Often, but not always, the scale balancing exercise is between public interest as against other equally legitimate interests, such as personal liberties, consumer responsibility, industry coordination, saving 'failing' firms and embracing technological innovations.

Unsurprisingly, competition law has not been immune to both the practical and ideological challenges posed by the pandemic. Like other global anti-trust enforcement agencies, the Australian Competition and Consumer Commission (ACCC) has had to adapt to mass remote working, with a swift successful focus on the sweep of COVID-19 related competitor collaborations necessitated by the need to effectively respond to the immediate effects of the pandemic. With the pandemic now momentarily suppressed in Australia (hopefully), the ACCC is pondering on longer term market effects issues, including considering whether it is time to introduce a more 'regulator' friendly merger paradigm. Perhaps an equally mammoth issue for the ACCC to grapple with is the appropriate reins it should (or should not) place on large technological platforms. Such platforms are undoubtedly some of the most transformative, innovative companies in the world, but their methods of accumulating market power and dealing with small businesses are increasingly subjected to the expansive lens of regulatory scrutiny.

To read the full chapter, please click here.

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