

Too Big To Bail: The Role of Antitrust in Distressed Industries

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This article asserts that antitrust has so narrowed the focus of its discipline that it has chosen to ignore larger issues which could contribute to consumer harm and ultimate economic performance. It argues that the modern approach to antitrust ignores traditional concerns that have been considered to arise with firm size, instead focusing on the potential efficiency gains arising from a merger. The potential political and macroeconomic ramifications of consolidation are often ignored as well, leading to what is described as a cycle of economic violence arising from repeated consolidation, crisis, and consolidation. The article commences with an historical examination of the role of firm size in antitrust analysis. The article then briefly discusses the use of efficiencies in antitrust analysis and its role in furthering consolidation. Next, it provides an example of the use and abuse of economic crisis in distorting antitrust analysis. Finally, the article offers some concluding remarks and identifies open questions that require further research.