Abstract

The legality of nonprice vertical practices in the U.S. is determined by their likely competitive effects. An optimal enforcement rule combines evidence with theory to update prior beliefs, and specifies a decision that minimizes the expected loss. Because the welfare effects of vertical practices are theoretically ambiguous, optimal decisions depend heavily on prior beliefs, which should be guided by empirical evidence. Empirically, vertical restraints appear to reduce price and/or increase output. Thus, absent a good natural experiment to evaluate a particular restraint's effect, an optimal policy places a heavy burden on plaintiffs to show that a restraint is anticompetitive.
Keywords
Vertical antitrust policy; Optimal enforcement rule; Inference

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James Cooper is Attorney Advisor, Office of Policy Planning. Luke Froeb is Director, Bureau of Economics, on leave from the Owen Graduate School of Management, Vanderbilt University. Dan O’Brien is economist and former Deputy Director, Bureau of Economics. Michael Vita is Assistant Director for Antitrust, Bureau of Economics. The views expressed herein are not purported to be those of the Federal Trade Commission, or any of its Commissioners. This paper is published as the background to Froeb’s Plenary address at 2004 meetings of EARIE in Berlin. The authors thank Timothy Brennan, Patrick DeGraba, Mark Frankena, Ken Heyer, Pauline Ippolito, Timothy Muris, David Sibley, and Greg Werden for helpful comments.

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