

ARTICLE

Antitrust and Great Powers Rivalry

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The Network Law Review is pleased to present a special issue on “Industrial Policy and Competitiveness,” prepared in collaboration with the International Center for Law & Economics (ICLE). This issue gathers leading scholars to explore a central question: What are the boundaries between competition and industrial policy?

Abstract: “Great nations” rivalry includes all aspects of economic rivalry, so it is natural that the great nations consider antitrust a weapon in their arsenals, particularly in areas such as military, technology, culture, and finance. While some strategic use (and abuse) of antitrust is probably unavoidable, judicious deployment of competition law principles by great nations can simultaneously enhance their geopolitical position and contribute to increases in total wealth..

As Thibault Schrepel has observed, “Great Power Competition ... for global influence, resources, and dominance” among nations or blocs like the United States, Russia, China, and the European Union has important implications for competition policy.¹ Conversations about the geopolitics of antitrust often focus on national champions policy—see the immense hand-wringing in Europe following the European Commission’s 2019 blocking of the Siemens/Alstom railroad merger and the political backlash from the German and French finance ministers given the threat of competition from China. National champions policy typically involves underenforcing competition law to allow the creation of the national champion. For example, the FTC’s 1997 approval of the Boeing-McDonnell Douglas merger was read in some quarters as approval for a deal that would reduce domestic competition but create a formidable counterweight to Europe’s Airbus.

¹ Thibault Schrepel, The Expected Impact of “Great Power Competition” on Antitrust Policy, Network Law Review (May 17, 2023), <https://www.networklawreview.org/great-power-competition/>.

National champion policy is undoubtedly a significant question in Great Powers rivalry, but I would like to focus here on a different phenomenon: the assertion of antitrust law against foreign competitors in order to weaken their position, and correspondingly increase the power of domestic producers for geopolitical strategic reasons. This sort of antitrust enforcement tends to play out predictably along several strategic dimensions. Without attempting to provide anything like a comprehensive analysis of the issue, I will briefly catalogue four key dimensions of Great Power rivalry potentially involving the deployment of antitrust law.

Military assets: When push comes to shove, the Great Powers are most interested in being prepared to fight each other and therefore have a particular interest in ensuring that they will have access to necessary military assets in the event of armed conflict. Peacetime commercial relationships between industrial firms may suddenly take on a new light when those firms are called upon to supply vital materiel in wartime. Such was the Allied experience with American-German commercial relationships leading up to the Second World War.

As war approached, the U.S. Justice Department woke up late to a number of international cartels, including agreements between German and American companies “to divide world markets or otherwise eliminate competition for military instruments, magnesium, synthetic rubber and high octane aviation gasoline.”² The U.S. government took the view that these cartel agreements had undermined U.S. preparedness for that war. For instance, a report from the U.S. Office of Military Government in Germany found that a joint venture agreement between Standard Oil and the German chemical company I.G. Farben, under which Standard was obliged to assign Farben any patents related to synthetic rubber, set back U.S. synthetic rubber development by several years, which became a significant issue once rubber sources from Asia became difficult to procure because of the war.³ In a nationally broadcast radio address in 1942, Assistant Attorney General for the Antitrust Division Thurman Arnold listed 162 cartel agreements between Farben—which by that point was a Nazi stooge—and American companies.⁴

The “cartel” agreements in question were mostly research and development and patent allocation agreements which ended up being manipulated by the Nazis to stymie U.S. war preparedness. In principle, there may be nothing wrong about joint research and development and patent allocation agreements. To the contrary, research and development joint ventures, including patent cross-licensing and technological information exchange, can be quite beneficial to all nations involved.

² Wendell Berge, *Antitrust Enforcement in the War and Postwar Period*, 12 *Geo. Wash. L. Rev.* 371, 372-73 (1944).

³ Daniel A. Crane, *Fascism and Monopoly*, 118 *Mich. L. Rev.* 1315, 1342 (2020).

⁴ Spencer Weber Waller, *Thurman Arnold: A Biography* (New York: New York University Press 2005), at 107.

But when a particular country finds itself on the short end of the stick while preparing for armed conflict, that can have serious implications for national security and military preparedness. All of this suggests that, in their own self-interest, the Great Powers should pay attention to peacetime commercial agreements which may disadvantage them in wartime. Antitrust principles may be available to thwart such agreements before they become a political issue in time of war.

Technology infrastructure: One day in the not too distant future, wars may be fought by robots controlled by artificial intelligence systems. Even short of fully automated virtual war, underlying technology infrastructure is increasingly important to the struggle for geopolitical supremacy, as evidenced by the increasing importance of AI in the Russian/Ukrainian war.⁵ Unsurprisingly, competition law is being deployed by the Great Powers to wrest control over advanced technologies critical to projecting and practicing global supremacy.

A recent case in point in the Chinese State Administration for Market Regulation’s (“SAMR”) September 15, 2025 preliminary decision that chipmaker Nvidia violated Chinese antimonopoly law (without specifying exactly how it broke the law),⁶ followed two days later by a governmental order to Chinese companies to stop buying Nvidia AI chips and to cancel existing orders.⁷ Whether this is all trade war bluster and a bargaining chip with the Trump Administration or a long-term plan to encourage Chinese reliance on American-made AI infrastructure remains to be seen.

Meanwhile, the United States and Europe continue to look nervously at Taiwan’s dominance in semiconductors, worrying that China’s growingly belligerent ambitions to retake Taiwan by hook or by crook could result in this vital technology falling into the control of the West’s key geopolitical rival. Given the dominance of Taiwan Semiconductor Manufacturing, which controls upward of 65% of chip foundries and 90% of advanced logic chips,⁸ it is not difficult to express these geopolitical concerns in the language of antitrust law. Further, antitrust language gives the Great Powers a seemingly neutral way of expressing what are in fact political concerns. This is not to say that there may not be legitimate “ordinary” competition

⁵ See Samuel Bendett, Center for a New American Security, Roles and Implications of AI in the Russian-Ukrainian Conflict, (July 20, 2023), <https://www.cnas.org/publications/commentary/roles-and-implications-of-ai-in-the-russian-ukrainian-conflict>.

⁶ Eduardo Baptista & Arsheeya Bajwa, In Latest Trade Warning to U.S., China Says Nvidia Violated Anti-Monopoly Law, Reuters (Sept. 15, 2025), <https://www.reuters.com/sustainability/boards-policy-regulation/latest-trade-warning-us-china-says-nvidia-violated-anti-monopoly-law-2025-09-15/>.

⁷ Arsheeya Bajwa, Nvidia CEO Huang Caught Between U.S., China’s ‘Larger Agendas’, Reuters (Sept. 17, 2025), <https://www.reuters.com/markets/emerging/china-tells-tech-firms-stop-buying-nvidias-ai-chips-ft-reports-2025-09-17/>.

⁸ Economist Liberties, The Biggest Threat to Chips’ Success, Economic Populist (May 2025), <https://economicpopulist.substack.com/p/the-biggest-threat-to-chips-success>.

law concerns at stake, but rather that the Great Powers have an obvious incentive to deploy the competition law lever whether or not such ordinary competition law concerns are in play.

Cultural influence: Perhaps the most important long-term vector of Great Power rivalry is cultural. The critical importance of regime control of cultural influences has been recognized at least since Joseph Goebbels's devastatingly effective propaganda machine. Whatever their military buildups and tough talk, the Great Powers would probably prefer to avoid actual war when possible. If the enemy can be "taken" internally, so much the better. Controlling the flow of information and steering the course of social attitudes and beliefs is therefore a major facet of Great Power rivalry.

The obvious poster child here is the Trump Administration's battles with Chinese controlled Tik-Tok. On its face, that is not an antitrust issue. Depending on how one defines the relevant market, Tik-Tok may not even be dominant in the U.S. In 2024, the company captured only about 12% of U.S. social media ad spending and faced competition from other video-sharing platforms such as Google's YouTube Shorts, Meta's Instagram Reels, Snapchat, and emerging platforms like Triller, Lemon8, and RedNote. The ostensible concern with Tik-Tok is national security, particularly that, through Tik-Tok's Chinese parent company ByteDance, the Chinese government will be able to spy on U.S. citizens and influence their behavior and social attitudes. Nonetheless, antitrust is very much part of the picture. Categorically banning Tik-Tok from the U.S. market could enable the dominance of other social media companies, as could forcing its divestiture into hands that already exert influence over U.S. social media. That, in turn, could lessen contestability and innovation in a variety of social media and related markets. At a time when virtually every large U.S. "Big Tech" company is under antitrust scrutiny, the national security battles over Tik-Tok cannot fail to have antitrust implications.

Banking and the financial sector: A final key aspect of Great Power rivalry with implications for antitrust policy is competition and cooperation in banking and the financial sector. The alleged "weaponization" of the U.S. dollar in the context of political sanctions has led to calls by Russia and China for building alternative "de-dollarized" financial systems. Countervailing these efforts to build state-backed financial hegemonic blocks is the decentralizing tendency of technologically enabled mediums of exchange like cryptocurrency that have no territorial boundaries and resist state control. Enter antitrust policy. A state that wishes to maintain currency and banking as a medium of geopolitical control has an incentive to deploy competition law to weaken the power of decentralized mediums of exchange. See, for example, China's 2021 cryptocurrency ban, which was not stated in antitrust terms but could well have been.

Using antitrust to bolster a country’s financial influence is fraught with peril. As with other aspects of Great Rivalry competition, this is not just a zero sum game. It is a game with the maximum sum likely set at zero, but negative sums also in the mix. A key premise of competition law is that robust competition grows the pie. Misuses of competition law reduce the pie, a price that I may be able to pay if my rival’s slice decreases even more. But actions that harm my rival but harm me more end up decreasing both my relative position and my absolute well-being—a position that no self-interested regime should favor. Misguided manipulation of competition in financial sectors could reduce innovation and access, increase prices, and generally reduce the efficiency and availability of a sector that is critical to competition, innovation, and growth in all other sectors.

This is not to say that all strategic deployments of antitrust law are misguided. Deployed properly—with an eye to promoting competition and efficiency—Great Powers can increase both their relative and absolute positions, and maybe even benefit the world generally. But this requires integrity with respect to what antitrust can accomplish and how it is used. Under most circumstances, generally applicable competition principles such as open and accessible standards, interoperability, FRAND-like access where bottlenecks arise, and transparent decision-making that enables objective evaluation of regulatory decision making should be preserved absent some truly exceptional national security consideration.

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