Lax antitrust enforcement linked to rising hospital prices

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A new study co-authored by a Yale economist provides evidence that insufficient antitrust enforcement in the U.S. hospital sector is contributing to reduced competition and higher prices for hospital care.

The study, conducted in collaboration with researchers at Harvard, the University of Chicago, and the University of Wisconsin-Madison, found that of 1,164 mergers among the nation's approximately 5,000 acute-care hospitals that occurred in the United States from 2000 to 2020, the Federal Trade Commission (FTC)--the government agency tasked with preserving competition in the hospital market--challenged only 13 of them; an enforcement rate of about 1%.

The researchers show that the FTC, using standard screening tools available to the agency during that period, could have flagged 20% of the mergers—238 transactions—as likely to cause reduced competition and increase prices.

The study is available in the journal *American Economic Review: Insights*.

If the FTC were optimally targeting enforcement, unchallenged hospital mergers should have had minimal effects on competition and prices, noted the researchers. However, using data on the prices that hospitals negotiate with private insurers, the researchers found that mergers the FTC could have challenged as predictably anti-competitive between 2010 and 2015 eventually led to price increases of 5% or more.

"It is plainly clear that there has been underenforcement of antitrust laws in the hospital sector," said study co-author Zack Cooper, an associate professor of health policy at the Yale School of Public Health and of economics in Yale's Faculty of Arts and Sciences. "We show that about 20% of hospital mergers from 2002 to 2020 could have been easily predicted to increase concentration, lessen competition, and raise prices.

"Since 2000, hospital prices have grown faster than prices in any other sector of the economy," Cooper added. "The average price of an inpatient admission is now nearly $25,000. We need to be doing more to preserve competition in U.S. hospital markets."

Because of steady consolidation in the $1.3 trillion hospital industry—which accounts for 6% of the nation's GDP—90% of hospital markets are now highly concentrated, according to the thresholds set by the FTC and the U.S. Department of Justice.

The FTC appears to have had access to the information needed to identify the potentially problematic mergers over the period the study covers, the researchers said, noting that about half of the deals that could be predicted to lessen competition were reportable to the agency under federal law.

Cooper and co-authors Zarek Brot-Goldberg of the University of Chicago, Stuart Craig of the University of Wisconsin-Madison, and Lev Klarnet of Harvard University cite underfunding of the FTC as a potential cause of its lax enforcement activity.

They estimate that the 53 hospital mergers that occurred on average annually from 2010 to 2015 raised health spending on the privately insured by $204 million in the following year alone. Putting this spending increase in context, the researchers note that the FTC's average annual budget and antitrust enforcement budget between 2010 and 2015 were $315 and $136 million, respectively.

"We posit that much of the underenforcement is likely a function of a lack of funding for the antitrust enforcement agencies," said Brot-Goldberg, an assistant professor at the Harris School at the University of Chicago. "Mergers in the hospital sector are generating short-run harms that roughly approximate the FTC's entire budget, which suggests the agency might lack sufficient resources to take necessary enforcement action and preserve competition."

The study found that mergers in rural regions and areas with lower incomes and higher rates of poverty generated larger average price increases, often in outpatient services. The researchers suggest this occurred because those regions—compared with higher income, urban settings—have fewer free-standing clinics that offer surgical and imaging services that compete against hospitals in the outpatient market.

More information: Zarek Brot-Goldberg et al, Is There Too Little Antitrust Enforcement in the U.S. Hospital Sector? *American Economic Review: Insights* (2024). DOI: 10.1257/aeri.20230340

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