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Vertical antitrust policy as a problem of inference

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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.



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