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Press Release

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NEW PHOENIX CENTER ANALYSIS FINDS PROPOSED PROHIBITIONS ON ACQUISITIONS BY BIG TECH PLATFORMS WILL REDUCE INNOVATION

Study finds that statutory restrictions on acquisitions by the large platforms adversely affect investments in innovations and alter the innovator-investor exit strategy

WASHINGTON, D.C. — Antitrust reform advocates view the acquisition of small innovative companies by large technology "platform" companies as a primary competitive problem in digital markets. To remedy this perceived problem, these advocates recommend restrictions on mergers and acquisitions. For example, the House Judiciary Committee Majority Staff Report argues for "the creation of a statutory presumption that a market share of 30% or more constitutes a rebuttable presumption of dominance by a seller, and a market share of 25% or more constitutes a rebuttable presumption of dominance by a buyer." Similarly, a report from the Stigler Center at the University of Chicago argues that all "[m]ergers between dominant firms and substantial competitors or uniquely likely future competitors should be presumed to be unlawful, subject to rebuttal by defendants." These proposed presumptions imply that combinations involving firms with larger market shares always reduce competition from emerging platforms and disincentivize innovation and are therefore inherently anticompetitive.

In a new analysis released today entitled *Innovation, Exit, and Restrictions on Tech Mergers and Acquisitions*, the Phoenix Center's economists examine such proposals and find that statutory restrictions on acquisitions by the large platforms will adversely affect investments in innovations and alter the innovator-investor exit strategy, incentivizing innovators to transfer their innovations to dominant firms in even earlier stages to avoid antitrust scrutiny. These statutory prohibitions may encourage innovators to choose this early exit strategy despite it being inefficient, and will additionally drive more in-house innovation at the big firms and less external innovation. Similarly, the Phoenix Center's economists show that these prohibitions on later-stage acquisitions reduce the returns to innovation, thus reducing technological advancement in the industry.

"Exit by sale is a primary means by which investors in technology make a profit, and many innovations are developed specifically with the hope of selling out to well-established firms due to the profits provided by positive network external effects," says study co-author and Phoenix Center Chief Economist Dr. George S. Ford. "Raising barriers to the acquisition of burgeoning tech firms by established platforms may simply lead to the sale of technology in very early stages to avoid antitrust scrutiny, increasing in-house development and reducing innovation by small firms."

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A full copy of PHOENIX CENTER POLICY BULLETIN NO. 50, *Innovation, Exit, and Restrictions on Tech Mergers and Acquisitions,* may be downloaded free from the Phoenix Center's web page at: https://www.phoenix-center.org/PolicyBulletin/PCPB50Final.pdf.

The Phoenix Center is a non-profit 501(c)(3) organization that studies broad public-policy issues related to governance, social and economic conditions, with a particular emphasis on the law and economics of the digital age.