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FTC Focus: Enforcing Vertically Integrated Operating Systems

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This article is part of a monthly column that considers the significance of recent Federal Trade Commission announcements about antitrust issues. This installment considers what recent enforcement actions signal about the treatment of vertically integrated technology platforms.

The U.S. Department of Justice and Federal Trade Commission are wrestling with issues around the intersection of digital platforms and adjacent businesses; and how competition in digital markets may turn not only on price, but also on consumer access, placement within an interface, advertising opportunities and the use of data.

Walmart Inc. and Vizio Inc., for example, announced in March and June a series of initiatives integrating Vizio's smart-TV operating system with Walmart's retail-media and commerce businesses.[1] Similar integrations are taking place daily.

Unlike traditional utility bottleneck such as electric transmission or water distribution systems, which are subject to extensive public regulation, private digital gateways generally operate without comparable oversight. As a result, antitrust law often becomes the principal framework for evaluating potential consumer harm.

In this article, we examine the economic benefits of vertically integrated operating systems, how antitrust law distinguishes ordinary vertical integration from bottleneck control, and the distinction between regulated utility bottlenecks and unregulated bottlenecks.

Through this lens, we consider what recent enforcement actions signal about the expected treatment of vertically integrated technology.

Vertically Integrated Operating Systems

Vertical integration — the participation of a single enterprise at multiple stages of a supply chain — is common across industries and can drive cost-cutting, pro-competitive benefits for consumers.

An operating system is vertically integrated when its developer controls multiple layers of the surrounding ecosystem, such as hardware, applications, content, advertising, data, payment systems or commerce. Instead of using generic parts or tools, a vertically integrated operating system includes multiple components designed and optimized to work together.

An example of a vertically integrated operating system in the technology space is a smartphone. Smartphone manufacturers may participate in multiple stages of a supply chain, producing both hardware and software. A user of a particular smartphone may access a variety of apps — that is, software — created by the same company that produced the physical phone, the hardware.

As a result of its participation in more than one layer of the supply chain, the phone manufacturer can design its hardware and software to work well together, maximizing battery life, device speed and user experience.

Vertical integration can be economically efficient given its tendency to reduce transaction costs and third-party markups and pass savings through to consumers. Because of the pro-competitive characteristics and resulting consumer benefit, the DOJ and FTC are often, though not always, less critical of vertical mergers — as contrasted with horizontal transactions among head-to-head competitors at the same level in the supply chain.

To the extent vertical integration presents antitrust concerns, the question is whether the integrated firm is able to create a bottleneck by controlling a pathway that rivals cannot realistically avoid.

Vertical Integration and Bottlenecks

Despite the potential economic benefits of vertical integration, antitrust analysis considers whether a company has the ability and incentive to foreclose competitors from accessing customers or suppliers. Mergers are analyzed prospectively under Section 7 of the Clayton Act, which asks whether a transaction may substantially lessen competition or tend to create a monopoly, including by giving the merged firm the ability and incentive to limit rivals' access to customers, inputs, or competitively sensitive information.[2]

A vertically integrated operating system may be examined under this framework to the extent the analysis considers whether it introduces a bottleneck in the pathway competitors need or use to reach customers.

Not all bottlenecks, however, are created equal. In public utilities, a "regulated bottleneck" refers to a utility's transmission and distribution system because it is regulated by state and federal public utility commissions to prevent the owners of essential, difficult-to-duplicate infrastructure from using their control to charge supracompetitive rates, discriminate among users or deny reliable access to essential services.

Electricity, for example, is a key public utility where the regulated bottleneck is the network of wires, poles and related infrastructure that physically delivers power to customers. Even in states where customers can choose among retail electricity suppliers, those suppliers generally must rely on the utility distributor's poles, wires, substations, meters and interconnection infrastructure to reach customers.

The potentially competitive layer is often the generation or retail supply of electricity. The monopoly layer is the delivery network, because duplicating electric grids is inefficient and impractical.

Therefore, customer choice can exist on top of the regulated bottleneck, while regulators continue to oversee delivery rates, reliability, interconnection, maintenance and nondiscriminatory grid access.

Traditional utility bottlenecks are usually addressed through government regulation that often includes rate regulation, service-quality obligations and mechanisms for consumer complaints. In this model, the regulator protects consumer interests given the lack of a competitive marketplace that would otherwise do so.

Unique Questions Posed By Nonregulated Vertically Integrated Operating Systems

Vertically integrated technology operating systems do not fit the model of regulated public utility bottlenecks. The operating-system provider alone can often control the technical and contractual rules that determine which apps, services, payment systems, browsers, devices and features can reach users.

That difference matters because in digital operating systems the bottleneck can affect how consumers encounter and access competing products through a combination of app-store commissions, API-access rules, interoperability obligations and default-settings.

Antitrust law can play a role, but it would typically only do so after the fact, through litigation or negotiated relief. At that stage, the inquiry might shift from the prospective merger question under Section 7 to a retrospective question under Section 2 of the Sherman Act: whether the platform possesses monopoly power and used that power through exclusionary conduct.[3]

In the context of a bottleneck, that would mean asking whether the platform is a necessary or practically unavoidable route to customers; whether competitors can realistically route around it; and whether the platform used its control over that route to distort competition through conduct such as ranking, default settings, interoperability restrictions, or other mechanisms that may be difficult to observe directly.[4]

Implications and Enforcement/Regulatory Outlook

Vertical integration of operating systems, especially in the technology space, raises the question of how antitrust law will apply when the relevant consideration is consumer access and visibility. In traditional distribution markets, foreclosure might manifest as refusal to provide access to a competitor in the downstream market.

But in digital operating systems, the potential foreclosure may present more subtly — arising through mechanisms like search ranking, recommendation algorithms, app placement, advertising access, data use, or default settings. That makes it both critical and harder to discern whether a digital operating system is functioning as a bottleneck.

Regulators and courts must determine not only whether a platform is an essential route to consumers, but also whether the platform operator is using control over the route to harm competition in the downstream market rather than improving user experience.

U.S. antitrust law generally does not impose a duty of platform neutrality or duty to deal outside of regulated bottlenecks. Vertical integration is lawful and, as mentioned, can often be economically advantageous for firms and consumers.

But as operating systems increasingly mediate the relationships among consumers, content providers, advertisers, brands and retailers, agencies may focus more closely on whether a transaction gives the combined firm both the ability and incentive to disadvantage rivals by controlling access to a critical gateway — including through examining how the transacting parties and their competitors behave in response to such a merger.

Recent enforcement actions such as the DOJ's action against Google LLC, resulting in a September 2025 ruling from the U.S. District Court for the District of Columbia, illustrate how agencies and courts are applying antitrust principles to vertically integrated technology platforms in the absence of regulatory oversight. These cases demonstrate the analytical frameworks DOJ has used when examining large tech platforms where interoperability is limited, competitors may be disadvantaged, and users may become dependent on the platform.[5]

Conclusion

As digital platforms increasingly combine ownership over operating systems with advertising, commerce, content and data, antitrust enforcement will continue to develop the frameworks to assess when ownership over an important pathway to customers becomes sufficiently indispensable, such that it resembles the type of bottleneck traditionally associated with regulated utilities.

The challenge for courts and enforcement agencies will be determining when existing antitrust principles are sufficient to police that conduct — and when the characteristics of private bottlenecks warrant remedies that increasingly resemble the access obligations historically imposed in regulated industries.

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[1] https://corporate.walmart.com/news/2026/03/23/walmart-and-vizio-scale-content-to-commerce-at-newfronts; https://corporate.walmart.com/news/2026/06/23/walmart-connect-at-cannes-lions.

[2] 15 U.S.C. § 18; U.S. Dep't of Justice & Fed. Trade Comm'n, Merger Guidelines (2023). https://www.justice.gov/atr/media/1329301/dl?inline.

[3] 15 U.S.C § 2; U.S. v. Grinnell Corp. , 384 U.S. 563, 570 (1966).

[4] Id. at 571; Eastman Kodak Co. v. Image Technical Services Inc. , 504 U.S. 451, 481 (1992); U.S. Dep't of Justice & Fed. Trade Comm'n, Merger Guidelines [(2023). https://www.justice.gov/atr/media/1329301/dl?inline.

[5] Press Release, U.S. Dep't of Justice, Office of Public Affairs, Department of Justice Wins Significant Remedies Against Google (September 2, 2025), https://www.justice.gov/opa/pr/department-justice-wins-significant-remedies-against-google.

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Related Professionals

- **Erica Taylor Jones**
  Associate
- **John R. Ingrassia**
  Partner
- **KaDee Ru**
  Associate