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U.S. Airways Vs. Sabre: 3 Ways To Prove Healthy Market Competition

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At the heart of any antitrust suit lies the intent to foster healthy competition in the market. But what, exactly, does healthy competition foster? Lower prices, sure. But, more importantly, better products, better services, and more innovative ways to provide them, as well as fair negotiations among vendors.

Successful defense of an antitrust suit starts with proof of healthy competition. A recent battle of the experts in the $134M trial between airline giant, U.S. Airways (recently merged with American Airways), and Sabre Holdings Corp., a trip-planning conglomerate, offered three indicators to successfully prove healthy market competition:

Innovation

In the trial, U.S. Airways claimed Sabre—as part of a conspiracy to increase airfares and damage U.S. Airway's position in the market—forced it into an unfair, anti-competitive contract in 2006. At the time Sabre, which boasted a large share of the trip-booking market, served as one of the primary sources of airfare data for a massive network of travel agents responsible for a significant portion of U.S. Airways bookings. In the suit, U.S. Airways claimed it had no choice but to contract with Sabre in order to maintain access to this large travel agent network. Sabre's expert, however, University of Chicago economics professor Kevin Murphy, pointed to U.S. Airway's plea as the exact type of reasoning that is detrimental to the market, i.e., lack of innovation.

According to Murphy, U.S. Airways could have researched, planned and implemented the creation of a new technical platform, a "bridge" Murphy called it, to the numerous travel agents that would have alleviated the need to utilize Sabre's connection. In other words, there was opportunity to innovate had U.S. Airways found the cost of the project in conjunction with the end result—which would have alleviated the need to partner with Sabre—more valuable than the contract with Sabre. Motive and opportunity to innovate around stagnant models is a sign of healthy market competition. In addition, the "threat" of creating a new model, as Murphy put it, also has value and would have impacted negotiations.

Negotiation

To further his argument that the Sabre-U.S. Airways contract was the result of healthy competition, Murphy also pointed to the stern negotiations U.S. Airways and Sabre entered into prior to execution of the contract. Witnesses at the trial testified that U.S. Airways took very stern negotiating positions before a final value was agreed upon between the parties. Murphy explained this could not have occurred had Sabre truly possessed the type of anticompetitive market power U.S. Airways claimed. If that had been the case, Sabre would have simply named their price and left U.S. Airways powerless to refuse. Fair bartering among vendors for provision of unique, in-demand services is another indicator of healthy market competition.

Valuation

One of the primary points of contention between U.S. Airways' expert and economist Murphy was Sabre's "full content" contracts, a requirement by Sabre that air carriers provide access to any and all fares they offer. U.S. Airways' expert referred to this as a "no discount" constraint. In other words, if the consumer knows the carrier has previously priced a flight at $200, that prevents the carrier from now telling the consumer—with a straight face, at least—that the true value of the flight is $300 but will be generously offered at a discount for only $200. Full disclosure, according to U.S. Airways, limits the carrier's ability to alter pricing to suit demand. Murphy, however, explained "full content" actually increases competition because it drives prices down. If consumers have all options available at the time of booking, they will often choose the lowest priced option that suits their need. This is the cornerstone of competition. Full disclosure allows for unfettered comparison shopping and enables the consumer to value all options according to personal preference and necessity. If certain options (which are often not simply the lowest-priced) begin to advance, this spawns innovation among market competitors to match consumer desire and the cycle begins anew: innovation, negotiation, valuation.

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