Who Cares about Consumers?
Evidence from FTC Enforcement Actions

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ABSTRACT

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This paper empirically analyzes the impact on CEOs and companies when filed for infringement of consumer interests. The sample is selected for cases enforced by the Federal Trade Commission (FTC) from 1995 to 2015. We use the synthetic control method (SCM) to estimate the effects of infringement on consumer interests on outcome variables. SCM is used to estimate the impact of policy intervention on outcome variables. As a result of the analysis, FTC Filing has no effect on CEO turnover and corporate performance. However, corporate governance has improved since the FTC filing. The CEO and the board of directors are punished for failing to complete M&A. This governance improvement is not caused by infringement of consumers' interests, but by infringement of shareholders' interests.

1. Introduction

The New York Time 8 19, 2019

Shareholder Value is No Longer Everything, Top C.E.O.s say

"Chief executives from the Business Roundtable, including the leader of Apple and JPMorgan Chase, argued the companies Must also invest employees and deliver value to customers"

In 2019, US executives such as Apple, Amazon, Pepsi, and General Motors (GM) announced 'Statement on the Purpose of a Corporation' at the Business Roundtable (BRT). They change the existing corporate purpose of shareholder value maximization. The content is "When the company decides and acts on investment, etc., it decided not to pursue profits just for the shareholders, but to consider all stakeholders including employees, customers, and society." This means shifting the ideology of "shareholder value maximization" in real companies beyond academic discussion.

In the last fifty years, shareholder capitalism has become corporate purpose. Friedman (1977) played an important role of shareholder capitalism to become the global standard. He said, "there is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud." Since then, most companies have made shareholder value maximization through profit maximization and stock price rise as their top management goals.

However, it changed as the economic and social polarization deepened after the 2008 global financial crisis. As a result, Corporate Social responsibility (CSR) become popular research topics. The role of a corporation is often debated as a mutually exclusive choice between economic responsibility to shareholders and social responsibility to society. An evolving viewpoint embraces an integrated approach focused on long-term value creation for shareholders which benefits other stakeholders (Queen, 2015).

In this paper, we analyze the effects of Federal Trade Commission (hereafter, FTC). We focus on the impact of FTC cases when infringing the interests of consumers, one of stakeholders. Limiting competition raises the supply curve and, in the case of false advertising, increases the demand curve.

This increases the market price. Therefore, in order to effectively deal with these problems, it is necessary to take charge of competition policy and consumer policy in one institution. As a result, U.S has established the FTC, which is primarily responsible for competition and consumer policy. In this paper, questions such as “What happens to the firms if the interest of consumers, one of stakeholders, is damaged?” and “Who cares about consumers once FTC enforcement action took place?”

Using synthetic control methods (hereafter, SCM), we quantify the effect of FTC enforcement on the performance and policy of a firm. We construct a synthetic match for each firm in the treatment group, firms involved in FTC enforcement process, by using the firms in the control group in such a way that the synthetic firm has similar behavior to the actual firm before the event of FTC filing. The effect of FTC filing can be captured as the difference between the behavior of the firm and its synthetic match after FTC filing. We use this method is to control for the unobservable factors that have an impact on the common time trend in the treatment and control groups.

We contribute to the literature as follows. First, there are many studies to explore the effect of financial fraud on the executives, boards of directors and firms. Farber (2005) shows that the firms take actions to improve corporate governance following fraud detection, which drives higher stock price performance in the post-fraud detection period. Karpoff et al.(2008b) find that the firms committing the financial fraud are subject to penalties imposed in markets that are much larger than the legal penalties that they receive. Karpoff et al.(2008a) find that executives who infringed on the interests of shareholders become turnovers. Although many studies have been conducted on the infringement of the shareholder interests, we explore the case of non-shareholder’s welfare infringement. Especially, we focus on the infringement of the consumer interests among stakeholders.

Second, there is an emerging literature that emphasize the role of non-shareholder, stakeholders in companies’ policies, values and corporate governance system. Zingales (2000), Jensen (2001), Acharya et al., (2011), Magill et al., (2015). for theoretical studies; Dimson et al., (2015) for institutional investors. Schmid (2004), Faleye et al., (2006), Fauver and Fuerst (2006), Agrawal (2012), Huang et al., (2017), Kim et al., (2018) for labor. Doh and Quay (2006) for NGO. We change an angle in a different way. We look what happens to the firms if the interest of consumers, one of stakeholders, is damaged.

In order to analyze the events that infringed on the interests of consumers, we study the changes of firms after the firms that have been Filing to FTC, an organization that protect consumers. In the previous study, there was insufficient research to infringed on the interests of consumers. A similar study included the study of changes in shareholder wealth implications by corporate lawsuits (Bhagat, 1998). In his research, the lawsuits are classified into Antitrust, Breach of Contract, Corporate Governance, Environment, FTC-Type Suits, Patent Infringement, Product Liability, and SEC-Type Suits. He analyzes shareholder wealth implications by litigation type. Abnormal return is used as a variable to measure shareholder wealth implications. In his study, the Antitrust and FTC-Type Suits have no significant effect on abnormal returns.

Liu et al. (2016) studied CEO's reemployment according to the type of litigation, but did not analyze the direct penalty, Turnover. They categorize litigation into environmental, antitrust, IP and contractual lawsuits. And he studies the impact of these suits on the CEO's reemployment. It appears that the contractual lawsuit has a significant negative impact on CEO's reemployment. The contractual lawsuit means a breach of contract between companies. (e g. On August 1983, The suit alleges that Dow violated a contract to buy steam form Consumer's nuclear power plant in Midland, Michigan. Consumers was seeking court enforcement of the contract provision that would require Dow to pay $440 million for reneging on the agreement.). Haslem et al., (2017) use a sample of lawsuits filed in US Federal District courts to show the results of market value and reputational losses due to corporate misconduct. Our study differs in that it analyzed the impact on various aspects by CEO's turnover, performance, governance, investment and financing.

Finally, we have a methodological contribution to use SCM based on Abadie and Gardeazabal (2003), and Abadie et al. (2010). One of the important factors in this study is to select the donor group (control firm). Agrawal et al (1999) selected control firms for statistical analysis as the company with the same SIC code 2-digit and closest net sales. In addition, two-tailed tests are conducted for the two years before and after the company is filing. Subsequent studies also use SIC codes (2-digit, 3-digit and 4-digit), net sale, and market-to-book assets. (Farber (2005), Fich and Shivdasani (2007), Karpoff et al.(2008b)). In previous studies, control firms were selected using independent variables that could affect the outcome variables. In this method of analysis, endogenous problems cannot be avoided. In other words, using the existing research methodology, there is a limitation of research called endogenous problem.

So, we use new research methods that are different from the previous ones. The SCM known by Abadie and Gardeazabal (2003) is applied. The SCM creates a control firm using the result variable rather than the independent variable. This method eliminates the endogenous problem that can occur when selecting control firms using independent variables. The SCM is akin to nearest neighbor matching estimators (Dehejia and Wahba, 2002; Abadie and Imbens, 2006; Imbens and Rubin, 2015) but departs from nearest neighbor matching methods in two important aspects. First, the SCM does not impose a fixed number of matches for every treated unit. Second, instead of using a simple average of the matched units with equal weights, the SCM matches each treated unit to a weighted average of untreated units with weights calculated to minimize the discrepancies between the treated unit and the synthetic control in the values of the matching variables. Synthetic control estimators retain, however, appealing properties of nearest neighbor matching estimators. In particular, like nearest neighbor matching estimators, synthetic control estimators use weights that are non-negative and sum to one. In addition, synthetic control weights are often sparse. That is, like nearest neighbor matching estimators, they only assign positive weights to a relatively small number of untreated units. Sparsity and non-negativity of the weights, along with the fact that synthetic control weights sum to one and define a weighted average, are important features that allow the use of expert knowledge to evaluate and interpret the estimated counterfactuals (see Abadie et al., 2015).

In cases with a small number of treated units, the interest may lie on the treatment effects for each of the treated. In our paper, especially in settings with a large number of treated units, we focus on the average effect of the treatment among the treated (see, e.g., Acemoglu et al., 2016; Gobillon and Magnac, 2016; Kreif et al., 2016).

The main findings of our paper are for the following. The first FTC Filing has no effect on CEO turnover. After FTC Filing, 63% of CEOs have become "Not Terminated". The CEO's tenure after FTC Filing (treated firm) is 4.74 years. Controlled Group's CEO tenure is 4.45 years. There is no significant difference in tenure between the two groups. The CEO's turnover age after FTC Filing (treated firm) is 60.21 years old. Controlled Group's CEO turnover is 60.55 years old. There is no significant difference in turnover between the two groups.

Second, we analyze the impact of FTC filing on the company. FTC filing on the company can be divided into two types. The first type is precautionary measures, and the second type is penalty after the fact. A typical example of precautionary measures is Antitrust.

Typical examples of penalty after the fact are consumer protection and collusion. However, false and exaggerated advertisements target an unspecified number of people. It has characteristics of both precautionary measures and penalty after the fact.

When we analyze the impact of FTC filing on companies, we analyze it by dividing it into Antitrust, which is a precautionary measure, and Not Antitrust, which is a penalty after the fact.

We find in the Antitrust sample that FTC filing has no effect on firm performance. This is because it is a case of preventing infringement of consumer interests in advance. Therefore, there is no market penalty because the interests of consumers are not infringed. FTC filing has no effect on firm performance in the Not Antitrust sample. In cases where the interests of consumers are directly infringed, the FTC filing has no effect on firm performance.

Next, we analyze the effect of FTC filing on the investment and financing policy of a firm. In both the Antirust and Not Antirust samples, the FTC's filing has no effect on the firm's investment and financing policy.

Finally, we analyze the impact of FTC filing on corporate governance. In the Non-Antirust sample, the FTC filing has no effect on corporate governance. However, in Antitrust sample, the FTC filing increase the proportion of the CEO's performance pay (TDC1). The CEO is penalized for responsibility for not completing a M&A due to FTC filing. This penalty is not for an infringement of consumer interests, but rather a penalty for infringement of shareholders' interests.

The rest of the paper is organized as follows. Section 2 explains the procedures for FTC filing. Section 3 Defines Sample. Section 4 describes the data and descriptive statistics. Section 5 analyzes the main results from the CEO and firm perspectives. The analysis from the CEO perspective is based on the CEO turnover. And the analysis from the firm perspective is based on Performance, Governance, the investment and financing policy. Section 6 is the conclusion.

2. Prerequisite

In the U.S, FTC and Department of Justice (hereafter DOJ) are responsible for the enforcement of Antitrust Law and Consumer Protection Law. Regarding punishment, it is a feature that punishes with massive damages through class action as well as individual litigation, such as litigation against triple damages.

Antitrust is enforced by DOJ based on the Sherman law. However, this is not enough. So, the parliament still requires DOJ to enforce the Sherman law, but additionally enacts the FTC law. So, some are overlapping. If there is a dispute over the jurisdiction of the two agencies, it is agreed that the settlement will be resolved within two days through arbitration. The agreement was withdrawn by Sen. Ernest F. Hollings. The clue for investigating the case have reports and authority from the public or victims. Also, there are no specific forms or procedures for reporting.

The FTC's law states that it is for the public interest that the FTC initiates the case. FTC's investigation is divided into initial phase and full investigation. Initial phase is optional investigation. Full investigation is a mandatory investigation.

First, the FTC's procedures are summarized. The initial phase voluntarily submits data from the parties or related parties. They also collect data on their own. In principle, the period is within 30 days. In case of “antitrust”, it is the waiting period (pre-merger notification) phase. In principle, the period is within 30 days. Exceptionally, “cash tender offer” and “bankruptcies” are shortened by 15 days. 30 days can be added if necessary.

As a result of the initial phase, if the content is insufficient or compulsory data is needed, the switch to the full investigation. In full investigation, you can “subpoenas, civil investigative demand, investigational hearings, annual or special report, access order.” In the case of “antitrust”, this step is second request. In the case of the second request, it is not necessarily a forced investigation. At this time, “preliminary injunction” can be performed.

Second, the DOJ's procedures are summarized. DOJ starts with a preliminary inquiry. In preliminary inquiry stage, DOJ does not publish, but FTC publishes. The DOJ then decides whether there will be a civil action or a criminal action. This stage is like full investigation. The difference between the FTC and the DOJ is that the DOJ can punish criminals. You can be fined $1 million or imprisoned for up to 10 years. In addition, the penalty of Sherman law and the gain or loss gained from illegal acts are doubled, whichever is greater.

Filing times are important to check the effect of FTC enforcement. We use filing times as the time to recognize illegality in the market. This is because there are differences depending on the system and procedures. In the case of “antitrust”, pre-merger notification recognizes events in the market. However, it is not necessarily illegal. So, we define filing times according to the procedure.

2.1 Consumer protection

FTC consumer protection cases include “privacy and security” and “false advertising.” Equifax Credit Information Services case is an example of “privacy and security.” Equifax Credit Information Services, Inc. blocked millions of calls from consumers who wanted to discuss the contents and possible errors in their credit reports and kept some of those consumers on hold for unreasonably long periods of time. Equifax Credit Information Services, Inc. have agreed to a total of $2.5 million in payments as part of settlements negotiated by the FTC to resolve charges that they violated provisions of the Fair Credit Reporting Act (FCRA) by failing to maintain a toll-free telephone number at which personnel are accessible to consumers during normal business hours.

[Insert Figure 1 here]

The Kellogg case is a false advertising. Kellogg advertising claims touting a breakfast of Frosted Mini-Wheats as “clinically shown to improve kids’ attentiveness by nearly 20%”. In fact, the study showed that the children who ate the cereal for breakfast averaged just under 11 percent better in attentiveness, by comparison, and that relatively few were nearly 20 percent more attentive.

FTC antitrust case is that, for example, Boston Scientifics acquired Guidant Corporation for $ 27 Billion. FTC requires asset divestitures before allowing Boston Scientifics $27 billion acquisition of Guidant Corporation.

The FTC Act defines unfairness as being capable of causing or causing significant consumer damage that consumers themselves cannot reasonably avoid and cannot compensate for damage to consumers or competition.

The subjects of our paper are limited to the case of finally making Cease and Desist Order and Final Decision. In this paper, the investigation is separated into two parts. The first part is the initial phase of investigation and the second part is the full investigation. The full investigation is confirming there is violation of laws and regulations. We define the filing point as when the full investigation is started.

2.2 Antitrust

According to Ross (1993), the objectives of the U.S antitrust are not single and there is an unclear aspect from the time of enactment. Since then, in the execution process, it has a variety of appearances according to the times and events. In FTC's law, "unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful."

[Insert Figure 2 here]

The subjects of paper are limited to the case of finally making Consent Agreement and Preliminary Application. The second request is confirming there is violation of laws and regulations. We define the filing point as when there is second request.

3. Sample

The litigation release data is collected from FTC Database. We select the cases that enforced by the FTC from 1995 to 2015. In some cases, the same firm may have been continuously filing within three years. Because there is a duplicate effect, the previous filing event is removed, leaving only the last filing.

Corporate Financial Data is collected from Compustat database. The CEO's compensation and turnover data is collected from the ExecuComp database. Board independence is collected from the Boardex database.

[Insert Table 1 here]

Table 1 shows the definition of main variables. The definition of filing of the two institutions is as follows. For FTC, full investigation should be filing point according to FTC procedures and rules of practice. In case of Antitrust case, filing point is when second request occurs. We collect the data of the year of conduct by confirming the content of the complaint. For example, in the case of FTC, there is a difference between a false exaggeration advertisement and a filing timing. The CEO who made the decision is different from the CEO at the time of filing.

4. Descriptive Statistics

[Insert Figure 3 here]

Figure 3 summarizes the number of events by FTC enforcement types. The total number of FTC enforcement is 245 cases. Antitrust accounts for the largest number of 157 cases, followed by 51 cases of consumer protections, 8 cases of collusion and 28 cases of false and exaggerated advertisements. You may be questioning why there are more antitrust cases than consumer protection cases. Our study analyzes the effects before and after the filing. However, in the case of Consumer protection and False and exaggerated advertisements cases, it occurs frequently and repeatedly, making it difficult to analyze the exact effects before and after the Filing. So, there are many consumer protection cases excluded from the sample case. For example, Dell Computer Corporation was Filing to FTC in 1998 and 1999. The "Dell Dimension" service sold by Dell is supposed to provide with third-party software packages. However, Dell did not offer third-party software to consumers, so it was Filing to FTC in 1998. The following year, in 1999, Dell Filed to FTC for omitting important information from advertisements, causing consumer error. Events that violate the interests of the consumer may occur repeatedly.

Irene et al., (2012) find that industrial characteristics have a great influence as a factor that causes illegal behavior of companies. Companies in the biotech, computer, electronics, and retail industries are most likely to be involved in illegal activity. Therefore, the difference in the probability of occurrence for illegal activity according to the company's industry type causes an endogenous problem. To eliminate this problem, the SIC code 4-digit from Treated firms and Controlled firms (Donor) is selected equally.

[Insert Table 2 here]

Table 2 shows the data and descriptive statistics of the FTC filing firm and donor firm. The Donor firm is selected for the analysis of the SCM. In Table 2, there is a large difference in AT size between the FTC filing firm and the donor firm. FTC filing firm has a dominant position in the market. When selecting a donor firm pool, all firms with the same SIC 4 digits are selected. Therefore, there is a large difference in AT size between Treated Group and Control (Donor Firm) Group.

Although it depends on the industry, there are cases where there are more than 200 donor firm among the FTC filing firm. The SCM produces a colon firm that most closely resemble those prior to FTC filing. Colon firm is created by giving weight to each donor firm. In the colon firm creation process, a firm with a large difference from the treated firm is assigned a weight of 0. Therefore, the firm with a large difference from the treated firm has no effect in the SCM analysis.

[Insert Table 3 here]

Tables 2 and 3 show a large difference in firm size between FTC filing cases and M&A cases. Looking at Figure 4, the number of antitrust samples is the largest among FTC filing firm. Antitrust sample is an enforcement case sample by the FTC during M&A. The FTC filing firm is a firm with a monopoly position in the market. It is the firm with the largest assets in the same industry.

5. Empirical Results

5.1 CEO Turnover

5.1.1 CEO Turnover year and age

Several factors influence corporate decision-making. One of the most influential factors is the CEO. The higher the CEO's power, the higher the risk-taking of the company. (krista et al., 2012) When the CEO has a close relationship with the executives and directors appointed by the CEO, the risk of corporate fraud increases. (Vikramaditya et al, 2015) And CEO's retirement preference has a positive effect on merger activity. When the CEO approaches age of 65 years old, the likelihood of a merger and acquisition will increase. (Drik et al., 2015) As previously mentioned, the CEO's individual power, connection, and retirement preferences have a significant impact on corporate decision making. The CEO is also affected by his decision.

Koarpoff et al., (2008) find that 93% of CEO, executives and directors of companies that had financial misrepresentation resigned before the compulsory execution procedure is complete. In other words, if a company commits an illegal act that infringes on the interests of its shareholders, the CEO, executives and directors participating in the decision are penalized. However, if a company infringes on the interests of consumers, research on the effect on the CEO who participated in the decision on the illegal acts is insufficient.

There is a study done on the effect of various litigations on companies was analyzed in the case of consumers as plaintiffs. (Bhagat et al, 1998) The impact on CEO reemployment was studied due to differences in litigation related to environmental, antitrust, IP, and contractual lawsuits. (Liu et al., 2016) In previous research, as one of several types of litigation, there was an analysis of the difference between antitrust and FTC-type suits, but there was a lack of research that analyzed the cases of consumer infringement.

As the BRT announced, the business objectives are changing. This means that companies have an obligation to protect not only the interests of shareholders, but also the interests of consumers. However, there is a lack of research on companies' infringement on consumer interests. Especially, when a company invades the interests of consumers, there is a lack of research on the CEO's direct penalty which is Turnover. So, we study the impact of the CEO's turnover when he made the decision to infringes on the consumer's interests.

To do this research, the first thing we need to do is identify who is the CEO made decision to infringe on the interests of consumers (FTC filing). It will take a lot of time to find the CEO who has decided the company's illegal activities. The CEO may differ from the CEO at the time of illegal activity and at the time of the Filing. Even a CEO served at the time of Filing to FTC and SEC. He may not be related to illegal activities. Therefore, it is necessary to read and confirm the details of the complaint to find the CEO who has committed illegal activities. And, if a company engage in illegal activities for many years, we select the CEO based on the last point of the illegal activity. When a company engage in illegal activities for many years, several CEOs may have served during that period. The CEO has been replaced, but if the CEO inaugurated later continues the same illegal activities, it is unlikely that the CEO has been replaced because of illegal activities. So, we define the CEO of the last year for illegal activity as the CEO who receives a penalty. Based on these two conditions, we find the CEO who has committed illegal activities.

[Insert Figure 4 here]

Figure 4 shows the turnover rate for three years after filing a complaint with the FTC for infringement of the interests of consumer. When companies infringe on consumer interests, CEO turnover is 6.43% in the Filing year, 9.43% after one year, 7.60% after two years, 11.11% after three years.

[Insert Table 4 here]

Table 4 shows the CEO's turnover year and turnover age after FTC filing. Panel A shows the turnover percentage of the CEO by year after FTC filing. "Not terminated" is when the CEO continues to work for the company three years after FTC filing. 63% of the cases where the CEO continues to serve four years after the FTC filing.

Panel B is the result of T-TEST analysis of the CEO's turnover year after FTC filing. Treated Firms is an FTC-filed company. The same industry group was matched on a 4-Digt basis to companies that infringed on the interests of consumers. The reason for selecting the matching company based on 4-Digt is that it is an important factor that causes illegal activities (Irene et al., 2012). We select matching companies based on SIC code 4-Digt to control endogenous problems caused by industrial differences. (Farber, 2005. Fich and Shivadasani, 2007. Karpoff et al., 2008b)

In Panel B, when there is infringe the interests of consumers, the CEO of Treated Firms turnover after an average of 4.74 years and the CEO of Donor Firms turnover after an average of 4.45 years.

Panel C is the result of T-TEST analysis of the CEO's turnover age after FTC filing. When there is infringe the interests of consumers, the CEO of Treated Firms turnover age is an average of 60.21 age and the CEO of Donor Firms turnover age is an average of 60.55 age. This result raises the question of whether this retirement can be viewed as a penalty for illegal activities when the CEO who infringed on the interests of the consumer retired in three years after the illegal activity.

Looking Table 4, we find that the CEO has no significant penalties in the turnover in the case of infringement of consumer interests. FTC filing has both a precautionary measure and a penalty after the fact. The Antitrust case has a precautionary measure character. Antitrust prevents the monopoly that arises from M&A. In this case, there is no penalty for the CEO because no infringement of consumer interests has occurred. Consumer Protection cases have a penalty after the fact. When consumer interests are infringed, the FTC orders recovery and compensation for the damage. In this case, there is no penalty for the CEO. The reason CEOs infringe on consumer interests is to increase corporate profits. The goal of increasing corporate profits is to increase shareholder profits. An illegal act that violates the interests of consumers becomes an act to increase the interests of shareholders. From the perspective of shareholders, acts that infringe on the interests of consumers are acts to increase their own interests and acts that infringe on their own interests.

In the case of infringement of the interests of the consumer, there is no significant difference between the retired age of the Treated Firm and the Controlled Firms. CEO has no significant penalties in the CEO turnover in the case of infringement of consumer interests. When the CEO's decision-making violates the interests of consumers, it aims to increase the interests of shareholders. FTC filing has a precautionary measure character and a penalty after the fact character. By prevent infringing on consumer interests in advance, it has precautionary measure character. Since 1980, the Chicago School has become the mainstream of American competition policy philosophy. They minimize regulation in terms of economic efficiency. As a result, FTC filing is not affected the CEO's turnover.

5.1.2 Robustness Tests

We conduct robustness tests to support the results of CEO turnover. CEO turnover is the dependent variable. In some cases, CEOs left before FTC filing. His turnover is not due to FTC filing. The sample excludes CEOs who turnover prior to FTC filing. The target is the CEO in the event year at Treated and Donor Firms. In Table 5 column (1), we calculate a dummy variable that is 0 if the CEO is still in office and 1 if he has left one year after FTC filing. In column (2), we calculate a dummy variable that is 0 if the CEO is still in office and 1 if he has left two years after FTC filing. In column (3), we calculate a dummy variable that is 0 if the CEO is still in office and 1 if he has left three years after FTC filing. We conduct regression analysis to determine the impact of FTC filings on CEO Turnover. Variables that can affect CEO turnover is used as control variables.

The dependent variable is the CEO turnover. The independent variable is the FTC filing. As control variables, CEO age, Duality, BM, Tobin’s Q, volatility, and lnDelta (Pay-Performance Sensitivity) are used.

$$CEO\ turnover_{t+1,\ t+2,\ t+3} = \beta_0 + \beta_1 FTC\ filing_t + \beta_2 Age_t + \beta_3 Age > 60_t$$
$$+\beta_4 Duality_t + \beta_6 BM_{t-1} + \beta_7 Tobin's\ Q_{t-1} + \beta_8 Volatility_{t-1} + \beta_9 ln\ Delta_{t-1} + \varepsilon_t$$

Murphy and Zimmerman (1993) find a strong relation between CEO turnover and CEO age. An important variable is whether the CEO's age is close to 65, when he is forced to leave firm. Therefore, we create a dummy variable of 1 if the CEO's age is over 60, and 0 otherwise. Turnover risk for CEOs-chairman ($Duality_t$) significantly lower than for their non-chairman counterparts. (Peters and Wagner, 2014).

CEOs are significantly more likely to be dismissed from their jobs after bad industry and, to a lesser extent, after bad market performance. (Jenter and Kannan, 2015). Therefore, the variable for measuring the company's performance is used as a control variable. Stock return volatility ($Volatility_{t-1}$) is calculated as the variance of returns during the 24 months prior to the event year. (DeFond and Park, 1999) $Delta_{t-1}$ (Pay-Performance Sensitivity) is defined as the dollar change in a CEO's stock and option portfolio for a 1% change in stock price, as the primary measure of equity incentives. (Core and Guay, 2002)

[Insert Table 5 here]

Table 5 shows the regression analysis of the effect of FTC filings on CEO turnover. FTC filing has no significant effect on CEO turnover after column (1), column (2), and column (3).

Even if CEO makes a decision that violates FTC regulation, there is no risk of forced CEO turnover. This makes it easier for CEOs to make decisions that infringe the interests of consumers. Looking at Table 5, our results in Tobin's Q, BM, and Volatility are the same as those of previous studies. Looking at Table 5 columns (1), the company's Tobin's Q and Volatility one year before FTC filing have a negative effect on CEO turnover after one year. (Murphy and Zimmerman,1993; DeFond and Park, 1999)

5.2 Market Reaction

According to a study by Nourayi (1994), the stock price response to the release of SEC litigation was directly consistent with the severity of enforcement actions. We check whether FTC filling has a direct relationship with stock price response.

[Insert Table 6 here]

Table 6 shows the 3day window market reaction after FTC filling. Table 6 shows that there is no effect on the stock market for 3 days. This is because infringement of consumer interests can be an act of increasing shareholder interests.

5.3. Firm Performance and Policy

5.3.1. Synthetic Control Method

Abadie et al., (2010) introduce SCM as a new approach to assessing the impact of policy intervention. We extend the research field of the SCM by compare and analyze the impact of litigation. Assume that there are firm j+1 (filing firm) at time periods, t =1,….T. Assume also that a firm i implemented the filing at time point ( ) and in each of the succeeding time periods, annotated as post-intervention periods ( ). In turn, the pre-treatment period t=1,…, saw no filing effect. Filing's impact refers to the impact the company receive when it is filing to FTC. And FTC case is infringement cases of the interests of consumers. Also, other firms are denoted by j.

A synthetic control is defined by a weighted average of the firms in the untreated, control units. A weight is greater than 0 (≥ 0) and such that their sum equals one (+….+ =1). The value of a synthetic control's outcome variable at time t can then be computed as a weighted average. A suggested method for choosing is to minimize the following equation:

$$\forall i \in \text{Treatment Group}, \{w_j^i\}_{j \in \text{Control group}}$$

$$= \underset{\{w_j^i\}_{j \in \text{Control group}}}{\text{argmin}} \sum_{\substack{T_0 \\ t \in \text{Estimation window}}} \left[x_{i,t} - \sum_{j \in \text{Control group}} w_j^i x_{j,t} \right]^2$$

$$\text{s.t.} \sum_{j \in \text{Control group}} w_j^i = 1 \text{ and } \forall j \in \text{Control Group}$$

$$\forall i \in \text{Treatment Group } w_j^i \geq 0,$$

where $x_{i,t}$ is a vector containing the values of pre-intervention covariates in a treatment unit, and $x_{j,t}$ _ is a matrix collecting the values of the same variables from untreated units (Abadie et al., 2010, 2015). Once is determined, a synthetic control estimator for the effect of a policy intervention is given by comparing the outcomes variable of the treatment unit with the outcome variables estimated from the synthetic control units.

$$v_j \left[x_{i,t} - \sum_{j \in \text{Control group}} w_j^{i*} x_{j,t} \right]$$

where v_j is a weight that indicates the relative importance of assignment to the *j-th* variable when estimating a discrepancy between treated firm and synthetic firm after policy intervention (Abadie et al., 2015). Thus, a variable with more predictive power over an outcome variable will be assigned a larger v_j weight. For this purpose, prediction errors for each treated firm are computed in the pre-intervention time period. This calculation produces root mean squared errors (RMSPEs) for the pre-intervention periods.

In this procedure, control group (donor pool) is selected based on 4-Digit for individual companies that are filing to FTC. In addition, companies that have been filed with FTC are excluded from the donor pool. Control the impact of variables other than litigation on treated firm and control firms.

5.3.2. Difference in Difference in Differences

Looking at Figure 4, 157 of 245 FTC Sample cases are Antitrust cases. the Antitrust case prevents factors that may infringe consumer interests in advance. For example, the FTC has accepted a consent order, subject to final Commission approval, that would allow the purchase of Polyfibron Technologies, Inc. by MacDermid. Under the terms of the agreement, MacDermid and Polyfibron would be required to divest Polyfibron's liquid photopolymer business.[1] This is a representative example of how the FTC resolved the monopoly problem caused by M&A. Even if it is not the firm's initial M&A deal, the FTC approves the revised M&A deal. So, Antitrust cases include M&A effects. Therefore, we need to control the M&A effect within the FTC filing effect.

[Insert Figure 5 here]

As shown in Figure 6, we use Difference in Difference in Differences (DIDID) to control the M&A effect in the Antitrust Sample. Analyzing the impact of FTC filing on companies with SCM. In this

[1] Source: https://www.ftc.gov/enforcement/cases-proceedings/9910167/macdermid-incorporated-polyfibron-technologies-inc-matter

analysis, a Control Firm (Colon Firm) needs to be created. Donor Firm Group is required to make Control Firm (Colon Firm). We select Donor Firm Group as a company with the same Standard Industrial Classification (SIC 4 Digit) and no FTC Filing. And we exclude companies that Donor Firm Group make M&A deals in the same year.

[Insert Figure 6 here]

We analyze using the SCM based on the Donor Firm Group. And we analyze the impact of FTC filing on companies using difference in differences. Same for M&A, Donor Firm Group is selected as a company with the same SIC (4 Digit) and a company without FTC filing. And we exclude companies that Donor Firm Group make M&A deals in the same year. We analyze using the SCM based on the Donor Firm Group. And we analyze the impact of M&A on companies using difference in differences. We analyze the differences between FTC filing's Effect and M&A's Effect for companies using Difference in Difference in Differences (DIDID). We control FTC filing's Effect to M&A's Effect. Figure 7 shows changes before and after FTC filing of a company and before and after M&A. And Figure 7 shows Tobin's Q before and after FTC filing and before and after M&A. This graph shows the similar changes in Antitrust Tobin's Q (black line) and M&A Tobin's Q (gray line).

5.3.3. Results: Performance

[Insert Table 7 here]

Table 7 shows the firm's performance after FTC filing. Panel A is the result of analyzing the performance of the Antitrust sample with Difference in Differences (DID) after FTC filling. Panel B analyzes the Difference in Difference in Difference (DIDID) to control the M&A effect (performance) in the FTC reporting effect (performance).

Looking at Panel A, the antitrust sample after FTC filling has a significant effect on firm's performance. Antitrust Sample showed a significant decrease in the short term 0.02%, middle term 0.02%, and long term 0.03% in Tobin's Q. Antitrust Sample showed a significant decrease in long term 0.01% in Sales Growth.

[Insert Figure 7 here]

Figure 7 report Tobin's Q line and Sales Growth line before and after the FTC filing. Looking at the antitrust sample, you can see that the line of antitrust Tobin's Q and the line of M&A Tobin's Q. And you can see that the line of antitrust Sales Growth and the line of M&A Sales Growth. Therefore, the significant effect of Tobin's Q and sales growth in the antitrust sample may be the M&A effect. So, we do Difference in Difference in Difference (DIDID) analysis.

Looking at Panel B in Table 7, FTC filling in the antitrust sample has no significant effect on corporate performance. There is no effect on Tobin's Q and Sales Growth in the firm that received the Second Request from the FTC (Antitrust Sample). Since the Antitrust case is a precautionary measure, there is no direct infringement on consumer interests. And if there is no possibility of a sharp rise in consumer prices due to a monopoly, there is no need for regulation. (Chicago School) The FTC tolerates a monopoly of the market by firms if there is no increase in consumer prices. Antitrust cases are approved by FTC as a modified M&A form. As a result, in the Antitrust case, there is an M&A effect and an FTC filing effect.

We find that FTC filing (Antitrust) does not affect the company's performance (Tobin's Q, Sales Growth). The FTC imposes penalties to offset the monopoly effect. FTC charged that Rite Aid Corporation’s $3.5 billion acquisition of competitors Brooks and Eckerd Pharmacies from the Canadian drug store operator Jean Coutu Group, Inc. was anticompetitive and required the sale of retail pharmacies located in 23 cities along the East Coast.[2] Even if the M&A proceeds, the effect of the M&A is offset.

Panel C in Table 7 shows the changes in Tobin's Q and Sales Growth of FTC filing companies for reasons other than Antitrust in Short, Middle, and Long terms. There is no significant change in Tobin's Q and Sales Growth of FTC filing (Not Antitrust) companies. Also, we do not find any significant impact on Tobin's Q and Sales Growth in cases that directly infringe on consumer interests.

Looking at Table 7 and Figure 7, FTC Filing has no effect on the company's Tobin's Q and Sales Growth. For Antitrust cases, consumer interest infringement is prevented in advance. Therefore, there is no impact on the company's performance after FTC filing (antitrust). However, in the case of Not Antitrust, there is direct infringement of consumer interests. After the FTC filing (Not Antitrust), there

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[2] https://www.ftc.gov/enforcement/cases-proceedings/0610257/rite-aid-corporation-jean-coutu-group-pjc-inc-matter

is no impact on the company's performance.

5.3.4. Results: Investment and Financing

According to John J.McConnell and Chris J.Muscarella (1985), for industrial firms, announcements of increases (decreases) in planned capital expenditures are associated with significant positive (negative) excess stock returns. According to Morbey and Graham K. (1988), R&D expenditure drives a company's sales growth. So, we first look at changes in corporate R&D policies. McTier and Wald (2010) show that overinvested companies are more likely to be sued. Also, after litigation, on average, companies reduce over-investment activity. Firms reduce spending on external shocks such as lawsuits. So, we analyze corporate investment and financing policy changes with the external impact of FTC filing.

[Insert Table 8 here]

Table 8 shows the firm's Investment and Financing after FTC filing. Panel A is the result of analyzing the performance of the Antitrust sample with Difference in Differences (DID) after FTC filling. Panel B analyzes the Difference in Difference in Difference (DIDID) to control the M&A effect (performance) in the FTC reporting effect (performance).

We find that there is no effect on R&D, CAPEX, TDA and LDA in the full sample of FTC filing firms. We find that there is no effect on R&D, CAPEX, TDA and LDA in the firm that received the Second Request from the FTC (Antitrust Sample). There is no change in Investment and Finance Policy for FTC filing companies.

[Insert Figure 8 here]

Figure 8 shows the change in R&D, CAPEX, TDA and LDA before and after the FTC filing with antitrust cases. And it shows the changes before and after the M&A. Figure 9 shows the change in R&D, CAPEX, TDA and LDA before and after the FTC filing(non-antitrust).

Figure 8 shows no significant change in the R&D, CAPEX/AT, LDA line after the FTC filing (antirust sample). There is no significant change in the R&D, CAPEX/AT, and LDA lines after the FTC filing in the non-antitrust sample. In the M&A sample, R&D, CAPEX/AT, and LDA lines are close to 0.

Looking at Table 8 and Figure 8, FTC filing does not affect firm's Investment and Financing policies. Since the Antitrust Sample is a proactive measure, there is no change in corporate policy. There are many implications that there is no change in financial policy for companies in the non-antitrust sample that directly infringes on consumer interests.

Companies operate conservatively in external shocks such as lawsuits. The fact that there is no change in policy due to the external impact of FTC filing is because the penalty is weak or more profitable than punishment. The Non-antitrust sample is an example of collusion and false exaggeration advertisements. This means that the fines imposed on collusion are weak, and there are more benefits from false exaggerated advertisements.

5.3.5. Results: Governance

Obeua S. and Persons (2006) find that fraud/lawsuit revelated firms showed less increase in cash compensation than non-fraud/lawsuit firms. So, we investigate the change in the compensation of the CEO after the FTC filing.

[Insert Table 9 here]

Table 9 shows the effect of the FTC filing on governance. In Panel A, The CEO of the firm that received the Second Request from the FTC (Antitrust Sample) showed a significant increase in the proportion of CEO's incentive (TDC1) to 0.02% in the short term and 0.02% in long term. And when DIDID is used, the influence becomes strong when the M&A effect is controlled in the FTC filling effect. In Panel B, TDC1 increases significantly to 0.02% in short term, 0.02% in middle term and 0.02% in long term. In addition, the independence of the board (OUTSIDE) significantly improves by 0.01 % over a short period of time.

There is a clear difference in TDC1 between the company that received the Second Request from the FTC (Antitrust Sample) and the company that successfully completed M&A. The difference in the CEO's compensation is not due to infringing the interests of consumers. If it is a penalty that infringing on the interests of consumers, it should also have an effect in the Not Antitrust Sample of Table 9.

However, there is no effect on the Not Antitrust Sample in Table 9. The reason why the CEO's compensation for the FTC filing (Antitrust) sample is affected is the penalty for the CEO's failure to complete M&A.

[Insert Figure 9 here]

In Figure 9, there is a difference between TDC1's Black and Gray lines in the antitrust graph. And there is a difference between OUTSIDE's Black and Gray lines in the antitrust graph. Differences appear immediately after FTC filling. In the antitrust sample, positive values are shown in the upper and lower 2.5% of the confidence interval of TDC1, TDC2, and OUTSIDE. However, it does not appear in the confidence interval in the non-antitrust sample.

Looking at Table 9 and Figure 9, the significant influence of the Antitrust sample is not the result of infringement of consumer interests, but the result of infringement of shareholders' interests. There is a case in which M&A is given up in advance due to the possibility of not being able to complete M&A. FTC charged that Cardinal's proposed acquisition of Bergen Brunswig Corporation and McKesson Corporation's proposed acquisition of AmeriSource Health Corp. would substantially reduce competition in the market for prescription drug wholesaling and lead to higher prices and a reduction in services to the companies' customers. The parties abandoned their respective merger plans soon after the decision.[3]

FTC filling eliminates the effects that firm can obtain from M&A. As a result, the expected profits of shareholders are infringed. The governance structure is improved by infringing on the interests of shareholders. If it is an improvement in the governance caused by the infringement of consumer interests, the same result should be obtained in Not Antitrust. This is the same result as a study by Obeua S. and People (2006) on infringement of shareholder interests.

6. Conclusion

Our research results show the characteristics of the times well. Since the 1980s, “neoliberalism” that emphasizes market efficiency has emerged. So, the mainstream of American competitive philosophy

[3] https://www.ftc.gov/enforcement/cases-proceedings/9810025/mckesson-corp-amerisource-health-corp

also changed (Chicago School). Chicago School's view is to minimize regulations in terms of economic efficiency with a focus on consumer welfare. In other words, the Chicago School argues even if a firm monopolizes a market, there is no need to regulate it unless there is a direct infringement such as an increase in consumer price. These changes are limited to actions that directly affect consumer welfare within the scope of application. As a result, the number of court divestiture hearings and judgments is reduced.

Accordingly, the number of cases of enforcement of the Clayton Act (merger) by the DOJ and the FTC remains flat, but the number of lawsuits filed by the DOJ for violations of the Sherman Act (non-merger) decreases.

The same results are obtained in our study. First, we believe that FTC filings have no effect on CEO turnover. After three years of FTC filing, 62.5% of CEOs are still in the office. There is no CEO turnover effect after FTC filing. The same results are also found in the robustness tests.

Second, the Antitrust sample is partially approved by the FTC in most cases, allowing a company's market monopoly power. It imposes sanctions that can control the factors that increase prices caused by market monopoly. A company's market monopoly is recognized, except in cases where it infringes on consumer interests such as rising prices.

As a result, the company's performance and financial policies are not affected. However, there is an improvement in the governance after FTC filing. This is not a penalty that a company receives for infringing on consumer interests. The governance is improved because full M&A has not been completed.

Third, the point that we pay close attention to in our study is the Not Antitrust Sample. The Not Antitrust Sample is a case of direct infringement of consumer interests. When a company directly infringes on consumer interests, we find no impact on performance, financial policy, and governance.

FTC filing has no effect on the CEO, who is the final decision maker of the firm. In the Antitrust sample, firms are not penalized for infringement of consumer interests. In particular, the Not Antitrust sample, which directly infringes on consumer interests, has no effect. The FTC is the principal agency in the protection of consumer interests in the United States. However, when a firm directly infringe the consumer interests, if FTC filing does not affect the firm in any way, the question arises as in the title of our paper, “Who should protect consumers?”

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