As the U.S. Court of Appeals considers the Microsoft antitrust case, a central question is whether antitrust policy should protect companies like Netscape from hardball tactics by companies like Microsoft. The answer is a clear-cut no.

The impetus for the Microsoft case arose from the company's aggressive competitive behavior. Microsoft has consistently pursued a strategy of low prices, high volume and frequent product improvements. Rivals often get bruised in the resulting contests for market dominance, and many have complained loudly. But these same contests lead to reduced prices, more rapid innovation and expanded markets—outcomes that spur growth and benefit consumers.

The "browser wars" between Microsoft and Netscape illustrate the point clearly. Early on, Netscape dominated the market for Web browsing software. Its share of browser usage exceeded 80% in January 1996, compared to 5% for Microsoft. Microsoft persevered, investing hundreds of millions of dollars to improve and promote its Web browsing technology. It freely gave away browsing software, compelling Netscape to follow suit. It paid other firms to help distribute its software. Both Microsoft and Netscape rapidly improved their offerings.

What has been the fallout from the browser wars? The technology is better than ever, widely available at no charge, and consumers now have two major browser choices: Netscape and Microsoft. Rapid quality improvements, lower prices and ubiquitous availability also hastened the development of the Internet. And Microsoft's widely used Windows operating system now features extensive built-in Web technology that appeals to independent software developers and computer users.

Another major fallout is the government's antitrust action against Microsoft. Government lawyers argued that Microsoft unlawfully tied its browsing technology to Windows and made it more costly for Netscape to distribute software. They also argued that Microsoft actions hindered developments that might bring future benefits to consumers. As a remedy, they recommended the breakup of Microsoft. A lower court agreed on all counts.

In considering the role of antitrust policy, two points are key. First, complaints by competitors, no matter how frequent and vociferous, are not good signals of harm to consumers. When a company like Microsoft cuts prices, invests heavily in research and promotes its products, rivals often suffer. Those same actions directly benefit consumers. Indeed, complaints by competitors are often loudest when consumer benefits are the greatest.

Second, as a general principle, remedies for antitrust violations should be approached with much caution. A radical remedy like the Microsoft breakup should be grounded in a
careful assessment of consequences, favorable and unfavorable, and full consideration of less radical remedies. In this regard, the lower court failed its responsibility.

The principle of abundant caution flows from a simple truth. Economists, lawyers and judges have limited ability to discern the causes and consequences of market outcomes. They have even less ability to redesign the boundaries of firms and products in ways that improve upon market outcomes. This principle applies with special force to the Microsoft case.

By all accounts, Microsoft stands at the center of an astonishing performance by the personal computer industry over the past two decades. This history is grounds for grave doubts about the wisdom of heavy-handed antitrust remedies. There is a real danger that a breakup would undermine the industry's continued development, either by crippling one of its leading firms or by discouraging aggressive competition in the future.

The competitive dynamic in the computer industry is also richer and more complicated than the simple theories that guide most economic thinking. Rapid innovation, high development costs and the need for hardware and software to work together are some of the characteristics that make the industry so dynamic. These characteristics also make it very hard to fashion remedies that avoid unintended negative consequences. Moreover, the market has a strong tendency to correct mistakes and inefficiencies. If Microsoft misjudges the market, other firms will respond, and Microsoft will fade.

The bottom line is that courts and regulators should be extremely reluctant to curtail aggressive competitive behavior. Absent compelling evidence that such behavior harms consumers, and that the harm outweighs the benefits, the right response is to let market outcomes prevail. Loose speculation about future harm merits little weight when set against clear and present consumer benefits.

Given the perils of antitrust remedies and the strong corrective tendency of markets, antitrust officials would do well to ponder this maxim: First, do no harm.

Credit: Steven J. Davis is a professor of economics at the University of Chicago Graduate School of Business and a consultant to Microsoft.