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# **Promoting Empirical Analysis in Competition Policy Investigations**

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# DG COMP in current effort to boost empirical analysis

- Train staff
    - Course for staff given by Dr. Peter Davis
    - Coaching by Chief Economist Team
  - Produce Manual for Empirical Analysis
    - Develops basic skills
    - Reference for possible approaches to address most common competition issues
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# Objective of the exercise

- Improve the quality of the empirical work
  - Improve the assessment of external evidence
  - Increase the use of quantitative methods in investigations
  - Broaden the range of techniques commonly used
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# Operational Aspects

- Quantitative analysis can be time consuming
  - Efficient allocation of scarce resources: When is it efficient to concentrate on quantitative models?
    - Value added in the decision making
    - Value added in the probative value
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# Integrating Empirical Analysis in the Legal Procedure

- Are the legal standards a constraint?
    - Sony/BMG: what mattered ultimately were the fulfilment of the 'Airtours Conditions' .
    - No matter how good an empirical identification of a collusion we can get, if we cannot also prove that the Airtours conditions hold, there is likely to be a problem from the legal point of view.
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# Integrating Empirical Analysis in the Legal Procedure (2)

- Is the legal community ready for quantitative analysis?
    - Many legal practitioners perceive quantitative models as an unnecessary risk
      - This is because they cannot evaluate the risk and validity of potential criticisms (example: in GE/Honeywell the empirical assessment on which the decision relied was left out of the decision)
    - Many legal practitioners perceive quantitative techniques to be inherently flawed
      - This is because the assumptions and limitations are spelled out. In qualitative analysis, they are not and people forget they are there.
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# A Clear Positive Example: Blackstone/Acetex

- Event study: Assess the effect of outages in the EEA plants of a given chemical product on EEA prices and imports.
  - Advantages:
    - Based on model and data from another study (fast and economical)
    - Produced clear conclusion
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# Another big empirical exercise: Sony/BMG

- Tried to use detailed transaction data to identify collusion
    - Analysis of price parallelism was clearly not enough
    - Theoretical problems of identification of competition
    - More complex modelling impaired by idiosyncratic elements in the industry such as the importance of non-price competition and the hit and miss nature of CDs
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# Sony/BMG (2)

- Potential Criticisms to the empirical analysis
    - Required 'massive' effort from the parties to give the data.
    - Required huge resources in-house
    - Did not produce a clear cut answer
  - But even purely descriptive empirical analysis was very useful
    - To understand how the industry worked (hits, new albums..)
    - To detect some more complex pricing patterns
    - And to actually find some evidence of unilateral behaviour
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# For the future

- Promote the use of empirical and quantitative analysis where it can be the most useful
  - Develop capacity to do so:
    - Train staff
    - Obtain data
  - Develop communication channels with legal community about the merits of empirical analysis
  - Nurture innovative techniques, use where beneficial
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