

Does EC balance efficiency gains against anticompetitive effects of horizontal mergers?

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Abstract: The purpose of this research is to contribute to the analysis of whether a merger control system should take into account efficiency gains from horizontal mergers, and balance these gains against the anti-competitive effects of mergers. In so doing, it empirically evaluates how economic factors such as anticompetitive effects and efficiency gains of mergers as well as non economic factors such as location or legal status of merging firms influence the decision process in the EU Commission's competition law cases

This study applies an alternative methodology namely Data Envelopment Analysis (DEA) and competing risk hazard models together with event study methodology. DEA is a non-parametric technique that uses observed inputs and outputs of firms in the sample to determine their operating efficiencies. Event study techniques measures the effect of a merger on the profitability of merging firms and their rivals. In so doing, we can identify the effects of a merger on competition. Having estimated the efficiency scores and competition effects, we next estimate a competing risks hazard model to evaluate these economic effects and other non economic factors on the decision process. The advantage of competing risks hazard model is that it allows each firm to face different risks, i.e. out of scope of merger legislation (art. 6.1.a), compatible with commitments (art, 6.2), let it through unconditionally or with commitments and obligations (art.8.2), and prohibition (art. 8.3). It also takes into consideration the

unobserved heterogeneity of firms which means that it separates individual effects from efficiency, anticompetitive or no economic effects.

The sample includes all phase II mergers scrutinized by the EC together with a randomly matched sample of phase I merger cases over the period from 1990 to 2007. Because of difficulties in identifying competitors or their stock, the final sample consists of 102 phase II cases and 123 phase I cases. The total number of firms in the sample is 880. Data are sourced from the *Official Journal* publications of the EC as well as *Datastream* database.

Empirical results will indicate factors that play an important role in every stage (Phase I and Phase II) of the Commission decision process. They will also provide some evidence on whether the EC balances efficiency gains against anticompetitive effects of a merger.