

AN ECONOMIC METHODOLOGY FOR INITIATING EX-OFFICIO CARTEL INVESTIGATIONS

by

Hans Friederiszick and Frank Maier-Rigaud¹

Abstract

Despite an effective track record in enforcing competition law in the area of cartels, it remains important for the European Commission to be capable to detect and investigate cartels independently from immunity applications received within the framework of the Commission leniency program. The paper sets out some preliminary thoughts developed within DG Competition on an operational methodology aimed at increasing ex-officio cartel detection. The methodology consists of two consecutive steps and draws in particular on two recent OFT studies² and the papers by Abrantres-Metz, Froeb, Geweke and Taylor (2005) and Harrington (2005). In the industry analysis, that is, the first step of the methodology, a scoring exercise, incorporating an analysis of structural breaks, based on a broader set of economic indicators necessary for or facilitating collusive agreements is used. In the critical event analysis, that is, the second step of the methodology, which is started if a sufficiently high score is reached in the first step, the case is analyzed using natural experiments. The first step is a general screening, while the second step aims at corroborating the evidence found in the first step in order to eliminate false positives. Although these preliminary thoughts are quite promising, the methodology contains a number of problems, such as data availability and the limits of distinguishing between tacit and explicit collusion, that have to be taken seriously from an operational point of view.

¹ Both authors are members of the working group within Directorate General Competition that has been discussing the methodology and work at the Chief Economist Team and in the Directorate for Policy and Strategic Support respectively. The views expressed are those of the authors and not of the European Commission.

² Nera (2004) Empirical Indicators for Market Investigations, prepared for the Office of Fair Trading and Grout and Sonderegger (2005) Predicting cartels, economic discussion paper, OFT.