
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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