Ex-Post Merger Evaluation

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The views expressed in this presentation are those of the presenter and are not necessarily those of the Federal Trade Commission or any of its individual Commissioners.
Why Study Old Mergers?

- Expensive use of agency resources
  - Most studies do not directly lead to law enforcement.

- Case Study
  - How can results from a single merger study be generalized?
Why Study Old Mergers?

● Evaluate Enforcement
  – Is agency aggressive enough?
  – Too aggressive?

● Improve Enforcement Methodology
  – Prospective Merger Review Difficult.
  – Evaluate methodological tools used in prospective merger analysis

● Training
  – Empirical skills gained from studies benefit enforcement mission.
Rest of Talk

- Policy Evaluation
- Retrospectives in two key industries
  - Hospitals
  - Petroleum
- Other Studies
  - Retailing
  - Consumer Products
- Divestitures
Policy Evaluation: Study Design

- Literature does not measure price effect of average merger
  - More than 96% of mergers in U.S. cleared without a second request (HSR Report FY 2012)
- Goal: Evaluate agency decision making on the enforcement margin
  - Cases where agency/court allowed merger but seriously considered challenging.
- Conduct Many Studies
  - If prices increase, on average, following mergers on the enforcement margin, then enforcement is not aggressive enough.
Hospital Merger Enforcement 1990s

- Most cases decided on geographic market
  - Elzinga-Hogarty Analysis
    - Measure flow of patients into and out of region
    - Increase region size until flows into and out of a region are small
    - In hospital industry, this technique generated large geographic markets

- DOJ and FTC lost 7 consecutive hospital mergers in late 1990s, essentially stopped challenging hospital mergers.
FTC Hospital Studies

- In 2002, then FTC Chairman Muris decided to conduct retrospective analyses of a number of consummated hospital mergers.
- Subpoenaed data from hospitals and insurance companies.
- Estimated the price effects resulting from four hospital mergers
  - Special volume of International Journal of the Economics of Business (2012) includes these studies and other hospital merger related papers.
Outcomes of Hospital Research

- Show previous methodology does not identify problematic mergers
  - Many economists now explicitly model bargaining between hospitals and insurers.
    - Patient flow information is used to identify bargaining model.
- Successful challenge of a consummated merger
  - FTC vs Evanston/Northwestern/Highland Park
- FTC now has a very active prospective merger enforcement program
  - Four hospital mergers blocked or abandoned since 2008
Gasoline Studies

- Concern that increased market concentration resulting from mergers was responsible for increased gasoline prices.
- Bureau of Economics staff conducted five studies of seven consummated mergers in the petroleum industry.
- Studies by Bureau of Economics Staff do not find evidence of a significant increase in retail price following the studied mergers.
  - Other studies using different modeling approaches find price increases following some of these mergers, e.g., GAO (2004), Hastings (2004), Hastings and Gilbert (2005).
Criticism of Merger Retrospective Studies

- Case Studies
  - How can we generalize findings?
- Carlton (2009): Study many mergers to learn about distribution of merger price effects.
  - Mergers in unconcentrated markets
  - Mergers in concentrated markets
Retail Markets

- “Do Retail Mergers Affect Competition? Evidence from Grocery Retailing”
  - Hosken, Olson, Smith (2012)

- Estimate price effects of supermarket mergers
- Examine many mergers taking place at roughly same point in time.
  - 14 U.S. markets in 2007 or 2008

- Different levels of concentration
  - 8 in highly concentrated markets (HHI>2500)
  - 6 in moderate or unconcentrated markets
Findings

- Prices increased in 5 markets
  - 4 were highly concentrated.
- Prices decreased in 5 markets
  - Only 1 highly concentrated.
- Conclusions:
  - HHI thresholds are a useful enforcement screen.
    - Mergers in unconcentrated markets are rarely problematic.
    - Mergers in concentrated markets are sometimes, but not always, problematic.
  - Price reductions consistent with merger efficiencies.
Unilateral Effects: Differentiated Products

- Focus on how mergers change the merged firm’s pricing incentives.
  - Deneckere and Davidson (1985)
- Introduced in 1992 Horizontal Merger Guidelines
- Commonly assumed model for simulating merger price effects
- Empirical evidence unilateral effects are important?
Unilateral Effects: Consumer Goods Markets

- Ashenfelter and Hosken (2010)
  - 5 Consumer Products mergers in late 1990s
    - Find prices increase following 4 of 5 mergers
- Ashenfelter, Hosken, Weinberg (2013)
  - Examine Maytag/Whirlpool appliance merger
    - Price increases in 2 of 4 most affected markets
- Weinberg and Hosken (forthcoming)
  - Evaluate merger simulation methodologies using data on two consummated mergers.
    - Find merger simulation sensitive to assumed demand model.
Divestiture Study: J&J/Pfizer

- Examine the effectiveness of divestitures resulting from a large merger.
  - Divestiture of 6 consumer products following Johnson and Johnson’s purchase of Pfizer’s consumer health division.

- Determine if the divestiture maintained competition in affected markets
  - Were brands as effective with a new owner?
  - Did prices rise or output fall?

- Finding:
  - “Overall, the results are consistent with the view that the divestitures maintained the pre-transactional level of competition”

Conclusions

- Retrospective analyses are essential to evaluate enforcement effectiveness and enforcement methodologies.
- With limited resources focus on:
  - Critical Industries
  - Studies that can evaluate enforcement tools
    - Merger Simulation
    - Divestiture Policy
References

Hospital Studies

- All published in 2012 special issue of International Journal of the Economics of Business
- Haas-Wilson and Garmon, “Two Hospital Mergers on Chicago’s North Shore: A Retrospective Study”
- Tenn, “The Price Effects of Hospital Mergers: A case study of the Sutter-Summit Transaction”
- Thompson, “The Effect of Hospital Mergers on Inpatient Prices: A Case Study of the New Hannover-Cape Fear Transaction”
References

Petroleum Studies

References

● Consumer Products
References

● Divestitures

● Retailing