



Tips for the ex-post assessment of merger decisions

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OECD Roundtable - Paris , 30 June 2011



Aim of this presentation

I will not explain the methodology that we have developed for the Competition Directorate General of the European Commission in 2006

Our study can be found at:

http://ec.europa.eu/comm/competition/mergers/studies_reports/lear.pdf

I will tell you what we have learnt from our experience as external consultants involved in these exercises

This should provide useful “tips” for authorities willing to embark in such assessments



Aim of the ex-post assessment

The ex-post assessment of merger decisions should have 2 aims:

- to establish whether the decision pursues the economic goal of the relevant merger control regime better than any alternative decision that could have been legally taken - **assessment with respect to the economic goal**
- to assess whether the analysis adopted to reach the decision was complete and correct, given the information available at the time - **assessment of the analysis**

It is important not just to know if the decision met or not its goal, but also why and if the decision making process could be improved



Which conditions optimise the likelihood that the review will produce valid results and lessons?

All the following elements matter:

- i. Completeness of assessment
- ii. Choice of decision to examine
- iii. Selection of team
- iv. Identification of necessary data and their availability
- v. Involvement of the market players - above all of merging parties



How decisions should be selected?

In selecting the decision to assess it is important to:

- i. Consider data availability and cost (including willingness of the merging parties to cooperate)
- ii. Select a decision that can teach something, e.g. a controversial or difficult one
- iii. Approval decision easier to evaluate, but prohibition and decision with remedies can be interesting
- iv. Not too recent, but also not too old



How should the evaluation be done?

Important to perform both:

- an “assessment with respect to economic goal”
- an “assessment of the analysis that underpins the decision”

The latter consists in assessing whether the analysis on which the decision was based was complete and correct, given the information available at the time

It allows to validate all the steps undertaken to reach the decision and to determine how they could have been improved



Who should conduct such reviews?

In choosing the team consider that:

- i. A fresh pair of eyes is essential
- ii. Impartiality helps to ensure validity and quality of results
- iii. The appropriate quantitative skills are necessary
- iv. These exercises can be time-consuming

In any case the involvement of the team who dealt with the case is essential to help identify all the relevant information and to reconstruct the analysis undertaken



What are the best methodologies available?

Possible quantitative techniques:

- Structural models
- Evaluation methods
- Event studies
- Surveys

Ex-ante is hard to rank techniques

All have advantages and drawbacks

The choice depends considerably on the data available



What are the best methodologies available? (2)

These techniques are not mutually exclusive and the best approach would be to use more than one simultaneously

We believe that, whenever feasible, a survey should always be carried out

Surveys allow:

- i. To obtain qualitative and quantitative data about the actual and potential development of the affected market after the decision
- ii. To help the interpretation of the results obtained through other techniques



Which data is necessary?

Specific data requirements, including its time dimension, depend:

- i. On the empirical method(s) chosen, though clearly the choice in turn depends on the data that can be obtained
- ii. On the key economic arguments on which the analysis is based
- iii. Not on the nature of the potential anti-competitive effects of the merger
- iv. Not on the nature of the transaction (i.e. horizontal or vertical merger)

The overall result of the assessment exercise depends on the quality and the completeness of the data



How can the necessary data be secured?

Maximum effort and care has to be put in the collection process

Finding the data is the main hurdle of these ex-post assessments:

- i. Hard to find data from public source
- ii. Commercial data on prices and quantities exists mostly for retail markets and can be expensive
- iii. Data on quality, efficiency, innovation difficult to find

Unless.....

Merging parties (and other market players) collaborate



Concluding remarks

Ex-post assessment of merger decisions can be a very useful exercise

Lessons can be learnt on how to improve the decision making process

Important to perform the assessment with care and completeness

Having the appropriate human and financial resources is essential

As it is to guarantee impartiality

Empirical methodologies have been to chosen with care



But remember.....

Choice of the empirical methodologies to employ matters

This is strongly interlinked with the question of data availability

How easily the necessary data can be obtained depends on:

- Nature of market affected
- Financial resources available
- Confidentiality
- **Availability of market players, especially the merging parties, to cooperate**



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