

**The Effectiveness of Competition Policy: Issues and
Methods**

An ESF Exploratory Workshop

17-18 November 2005

Scientific Report

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1. Executive summary

Context

The creation of the Single Market in 1992 has enhanced the rapidly increasing importance of competition policy over recent years in Europe. Worldwide, the on-going globalisation and liberalisation process has strengthened the need to fight distortions of competition through the enforcement of the rules concerning state aid, abuse of dominance, cartels and merger control. Now competition policy issues have moved to the forefront of corporate and public concerns.

This context raises the question of the effectiveness of competition policy. The debate on this issue is currently lively among economists from administrations, firms and universities, for as a domain of research it remains largely unexplored. Furthermore, a developed and unified framework of analysis between research in the areas of economics, finance and law, is currently lacking.

Scientific content

The exploratory workshop has explored in a more systematic way, and on a larger scale, the scientific issues raised by the evaluation of competition policy. It has invited papers and contributions that help to expand the existing literature and methodologies. The workshop has consisted of presentations of papers, roundtables and discussion groups. The objective was clearly to draw the lines of an agenda for future research.

These three questions have been addressed during the workshop, which, to our knowledge, is the first event entirely focused on this topic. These questions summarize the main dimensions of the scientific debate. First, to define what it is meant by an effective competition policy is a crucial task. Not all economists agree on the different dimensions that must be taken into account when defining the objectives of competition policy. Second and directly related to the question of the definition of an effective competition policy, there is the question of designing optimal tools to achieve effectiveness. For instance, one can question the use of increasing fines to deter collusive behaviour. Some people advocate jail sentences in this case while other researchers propose incentives schemes as the basis of leniency programs. Third, the discussion is completed by an analysis of the different methods to measure the effectiveness of competition policy.

Outcomes

This exploratory workshop has contributed to the debate among researchers on a difficult domain. In the short run, an extensive summary will be prepared by the French competition authority (DGCCRF at the Ministry of Finance). In the medium term, the researchers have agreed to meet again to check for the evolution of their research. In addition many of them have decided to participate into the creation of a network in part devoted to the topic of the workshop. This network will be aimed to foster the debate and the cooperation between lawyers and economists.

2. Scientific content of the event

Competition policy issues have moved to the forefront of corporate and public concerns. Worldwide, the on-going globalisation and liberalisation process has strengthened the need to fight distortions of competition through the enforcement of rules concerning state aids, abuse of dominance, cartels and merger control. In this context competition policy is one of the major instruments of economic policy. Everywhere in the world, the governments discuss the improvements of this policy instruments while emerging countries including China are developing their own competition law and authorities. In Europe, the new Member States contribute to this movement with the help of the European Commission which in the same time has engaged several reforms in view to foster the efficiency of the European competition policy in terms of merger regulation, state aids and collective dominance.

If competition policy is viewed as an instrument to maximize the social welfare and to contribute to the sustainability of economic growth and development, evaluating the effectiveness of competition policy is a crucial issue, only for practitioners but also for researchers, and in particular for economists.

There are several questions to be solved in view to perform a cost-benefit analysis of competition policy. First, it is not so simple to define what it is meant by an effective competition policy. Not all economists agree on the different dimensions that must be taken into account when defining the objectives of competition policy. Second and directly related to the question of the definition of an effective competition policy, there is the question of designing optimal tools to achieve effectiveness. For instance, one can question the use of increasing fines to deter collusive behaviour. Some people advocate jail sentences in this case while other researchers propose incentives schemes as the basis of leniency programs. Third, it remains to discuss the different methods to measure the effectiveness of competition policy.

These three questions have been addressed during the workshop, which, to our knowledge, is the first event entirely focused on this topic.

Defining effective competition policy is essential in the sense that, given the scarce resources available to competition authorities, competition authorities need to know how the effective competition outcome varies with the R&D intensity of the industry, the presence or absence of potential entrants, the external effects caused by the industry, its own objective function (social welfare or consumer surplus). On this basis a competition authority can decide to intervene when the outcome deviates from this benchmark. The deviation can come from either lack of competition (in case collusion for instance) or too much competition (in case of predation for instance). This task of defining effective competition policy is also crucial for firms in order to secure their industrial strategies. The solution discussed during the workshop is to define effective competition policy as the solution of a mechanism design able to account for the lack of information and the different economic and social constraints.

The tools that competition authorities should apply to achieve effective competition policy have also been hardly debated. The recent tendency toward criminalization of antitrust law and the drastic increase of jail terms for price fixing introduced by US authorities reactivates the debate on optimal sanctions against cartels. This question has received some economic replies in the form of recent innovations in the theory and practice of law enforcement – leniency programs and reward schemes – which introduces deterrence effects that were not taken into account in the design of optimal antitrust sanctions.

It is important to notice that this discussion must take into account the differences of antitrust regimes across countries. Most of the antitrust regimes, particularly the European ones, are enforced within the boundaries of each administrative law. Some other countries, such as the US, enforce antitrust using not only the administrative process, but mostly using common law. These differences have an impact in turn on the tools and the scope of competition policy.

The measurement issues are taking a strong part of the research effort. There are two strands of analysis. A first group of research work attempts to evaluate ex post the effectiveness of competition authorities' decisions on mergers or on remedies. These studies use different types of data, including financial data, to detect what are the main determinants of these decisions. By this mean they can assess whether the right arguments, with respect to the theoretical benchmark discussed previously, have been used. This type of approach can be subject to identification problems and measurement errors. Indeed the determinants of the decisions could be endogenous. A second group of studies uses structural models of industries to simulate the effects of mergers. These studies need more disaggregated data which are not always easily available. This of approach is criticized on the ground that it is fairly dependent on specifications assumptions. Nonetheless there is a strong call for quantitative analysis as a way to design and evaluate competition policy.

3. Assessment of the results, contribution to the future direction of the field, outcome

3.1 Assessment

The workshop has gathered an excellent group of researchers with international reputation. It has contributed to the debate on methodological issues between these researchers; it has strengthens the relationships between researchers and decision makers in the sense that it has permitted a debate between them. On the question of the effectiveness of competition policy this is crucial. On the one hand, researchers need data to perform their analysis and these data are often held by competition authorities. On the other hand, competition authorities need to improve their working procedures; they can find solutions in the recent economic research. The workshop has also shown the heterogeneity and the complementarity of different approaches and a need for confronting them. Clearly the financial and economic approaches will benefit from each other.

3.2 Contribution to the future direction of the field

The main result of this workshop is to have shown that the topic of the workshop is a research domain largely unexplored and certainly worth to be explored. The second result is methodological. Clearly researchers agree that structural approaches based on the recent development of economic theory are the way to go, in particular to achieve a better integration between the financial and economic approaches. A third result is that there is a need to confront the point of view of lawyers and economist on many aspects of the topic of the workshop.

3.3 Outcome

This exploratory workshop has contributed to the debate among researchers on a difficult domain. In the short run, an extensive summary will be prepared by the French competition authority (DGCCRF at the Ministry of Finance). In the medium term, the researchers have agreed to meet again to check for the evolution of their research. In addition many of them have decided to participate into the creation of a network in part devoted to the topic of the workshop. This network will be aimed to foster the debate and the cooperation between lawyers and economists.

4. Final programme



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Draft Programme

Thursday, 17 November

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| 09:15-09.45 | Opening |
| 09.45-12.30 | Defining Effectiveness
Chair: (tbc) |
| 09:45-10.30 | Effective Competition: A Benchmark for Competition Policy
*Jan Boone (Tilburg University and CEPR) |
| Discussant: | Xavier Boutin (INSEE and CRESTLEI) |
| 10:30-11.00 | Break |
| 11:00-11.45 | Choosing Among American, European, or No Antitrust At All
*Joan-Ramon Borrell (Universitat de Barcelona) |
| Discussant: | Philippe Choné (CREST-LEI and DGCCRF) |
| 11:45-12.30 | Regime Shift in Antitrust
*Vivek Ghosal (Georgia Institute of Technology) |
| Discussant: | Lionel Janin (CREST-LEI and INSEE) |
| 12:30-14.00 | Lunch |
| 14.00-16.45 | On the EU Competition Policy
Chair: (tbc) |
| 14:00-14.45 | Industry Characteristics and Anti-Competitive Behaviour: Evidence From the EU
Jordi Gual (IESE Business School and CEPR)
*Nuria Mas (IESE Business School) |
| Discussant: | Arvid Fredenberg (Swedish Competition Authority) |



- 14:45-15.30 **An Econometric Analysis of the European Commission's Merger Decisions**
Mats A. Bergman (Södertörn University College and Swedish Competition Authority)
*Maria Jakobsson (Stockholm University)
Carlos Razo (LECG)
- Discussant:** Benoit Durand (European Commission)
- 15:30-16.00 Break
- 16:00-16.45 **EU Merger Remedies: a Preliminary Empirical Assessment**
*Tomaso Duso (Humboldt University and WZB)
Klaus Gugler (University of Vienna)
Burcin Yurtoglu (University of Vienna)
- Discussant:** Andrei Medvedev (Centre for Competition Policy - UEA)
- 16:45-17.00 **Break**
- 17:00 **Roundtable 1: Evaluating Competition Policy**
Bruce Lyons (University of East Anglia)
Damien Neven (Graduate Institute of International Studies, Geneva and CEPR)
Patrick Rey (Université des Sciences Sociales de Toulouse and CEPR)

Friday, 18 November

- 09.15-10.45 **Theoretical Issues**
Chair:
- 09:15-10:00 **Spatial Price Discrimination, Buyer Mobility, and Coordinated Effects of Mergers**
Pio Baake (DIW, Berlin)
*Christian Wey (DIW, Berlin and CEPR)
- Discussant:** Valérie Rabassa (European Commission)
- 10.00-10.45 **Mergers with Product Market Risk**
Albert Banal-Estanol (University of Western Ontario)
*Marco Ottaviani (London Business School and CEPR)
- Discussant:** Thibaud Vergé (Université des Sciences Sociales de Toulouse and University of Southampton)
- 10:45-11.15 **Break**



- 11.15-15.30 Measurement Issues**
Chair: (tbc)
- 11:15-12.00 **Computing Abuse Related Damages in the Case of New Entry: An Illustration for the Directory Enquiry Services Market**
Maite Martinez-Granado (Universidad Carlos III de Madrid)
*Georges Siotis (Universidad Carlos III de Madrid and CEPR)
- Discussant:** Jrissey Motis (Université des Sciences Sociales de Toulouse)
- 12:00-12.45 **The Economic Impact of Financial Laws: The Case of Bank Merger Control**
Elena Carletti (Universität Mannheim and Centre for Financial Studies)
Philipp Hartmann (European Central Bank and CEPR)
*Steven Ongena (Tilburg University and CEPR)
- Discussant:** Thomas Piquereau (DGCCRF)
- 12:45-14.00 **Lunch**
- 14:00-14.45 **Optimal Fines in the Era of Whistleblowers: Should Price Fixers Still Go To Prison?**
Paolo Buccirossi (Laboratorio di Economia, Antitrust, Regolamentazione)
*Giancarlo Spagnolo (Stockholm School of Economics and CEPR)
- Discussant:** Cecile Aubert (University Paris-Dauphine)
- 14:45-15.30 **Merger Control in Differential Product Industries**
Franco Mariuzzo
*Patrick Paul Walsh (Trinity College, Dublin)
Ciara Whelan (University College, Dublin)
- Discussant:** Marc Ivaldi (IDEI and CEPR)
- 15:30-16.00 Break**
- 16:00 Roundtable 2: Evaluating Competition Policy**
Guillaume Cerruti (French Ministry)
Roderick Meiklejohn (European Commission)
Xavier Vives (ICREA – UPF, INSEAD and CEPR)

* denotes speaker

Speakers have 25 minutes to present their paper, with 10 minutes for discussants and 10 minutes for general questions.

Organizer: Marc Ivaldi (IDEI and CEPR)

The programme was assembled by a Scientific Committee composed of Patrick Rey (Université des Sciences Sociales de Toulouse and CEPR), Damien Neven (Graduate Institute of International Studies, Geneva and CEPR), Bruce Lyons (University of East Anglia) and Marc Ivaldi (IDEI and CEPR).

5. Final list of participants



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PARTICIPANTS

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Elena Carletti, Universitat Mannheim
Philippe Choné, Center for Research in Economics and Statistics (CREST)
Pascal Courty, European University Institute, Firenze and CEPR
Benoit Durand, European Commission
Tomaso Duso, WZB
Jordi Esteve, Economic Bureau of the President
Arvid Fredenberg, Swedish Competition Authority (KKV)
Gaëlle Garnier, European Commission
Vivek Ghosal, Georgia Institute of Technology
Fiammetta Gordon, Office of Fair Trading
Marc Ivaldi, IDEI, Toulouse and Université de Toulouse and CEPR
Maria Jakobsson, Stockholm University
Lionel Janin, CREST-LEI
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Laurent Linnemer, CREST-LEI
Bruce Lyons, University of East Anglia
Maria Maher, OECD
Maite Martinez Granado, University of the Basque Country
Nuria Mas, IESE, Barcelona-Madrid
Andrei Medvedev, University of East Anglia
Roderick Meiklejohn, European Commission
Jrissy Motis, Institut d'Economie Industrielle, Université des Sciences Sociales
Damien J Neven, Graduate Institute of International Studies, Geneva and CEPR
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Michael Wise, OECD

6. Statistical information on participants



