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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Cancels & replaces the same document of 14 August 2020

Global Forum on Competition

ECONOMIC ANALYSIS IN MERGER INVESTIGATIONS

– Session III – Call for country contributions

This document is a call for country contributions for Session III (former session IV) of the Global Forum on Competition to be held virtually from 7 to 10 December 2020 (with Zoom). GFC participants are invited to submit their contributions **by 30 October 2020** at the latest.

JT03464858

TO ALL GLOBAL FORUM PARTICIPANTS
RE: Roundtable on “Economic Analysis in Merger Investigations”
19th Global Forum on Competition (7 to 10 December 2020)

Dear GFC Participant,

In December, the Global Forum on Competition will hold a discussion on “*Economic Analysis in Merger Investigations*”. We are writing to provide you with some information on the topic and organisation of the session, and to invite you to submit a written contribution.

Economic analysis is a fundamental part of merger control. It underpins the theories of harm that guide merger reviews, and it provides the tools to interpret evidence when assessing these theories. Economic expertise can be of value at each stage of a merger investigation, from evidence gathering to the assessment of remedies. However, it is not always straightforward for authorities to select methodologies for economic analysis, decide how limited economics resources should be distributed, and develop a strategy to get the most out of economic analysis. This session will seek to explore some of these challenges.

A wide range of analytical tools is available to provide economic insights on a merger’s likely effects. The quantitative economic techniques used by competition authorities range from diversion ratios, to pricing pressure indices, to merger simulations, among others. Quantitative analysis requires adequate data availability, time, resources and methodological soundness. Careful interpretation is therefore essential – the quantitative nature of an analysis is not a guarantee of its accuracy or value. Nonetheless, even simpler techniques can be helpful in placing other evidence in context. Thus, reliable quantitative evidence may not require sophisticated econometric analysis to be of value.

Qualitative analysis is also essential in merger review, and can benefit significantly from economic expertise. In particular, economists can help determine what information is needed to form and evaluate theories of harm. They can help design surveys and information requests, and provide advice on what to look for in business plan and strategy documents. In addition, economists can help structure the assessment of qualitative evidence, for example when an interpretation of firms’ incentives and strategies is needed. Thus, economic expertise need not be restricted to quantitative techniques.

Several practical considerations and questions arise when using economic analysis in merger control. How to integrate economists into case handler teams, and to assign internal economics resources is one such question. In other cases, authorities may need to decide whether to use external expertise, for example when internal capacity is limited or a specific set of technical skills is required. Deciding how substantial an investment in quantitative analysis is required can also be challenging. Further, authorities must ensure that economic analysis is effectively explained, so that it is easily comprehensible by decision-makers and courts.

The Secretariat will prepare a background note that sets out the various economic techniques that are, or could be, used by competition authorities in merger reviews, as well as the practical considerations in their selection and application.

The OECD webpage on “Economic analysis in merger investigations” will be the primary vehicle for conveying documentation and related links on this subject. It will become available on the main roundtables page at www.oecd.org/competition/roundtables and the GFC website: oe.cd/gfc. Unless explicitly requested not to do so, the Secretariat will reproduce all written contributions on the site.

I would like to remind you that the Secretariat will compile short summaries of the written contributions to be distributed before the meeting. I invite you to submit such a short summary (no more than one page) together with your contribution. Alternatively the Secretariat will produce one, but given the time constraints you might not be in a position to check it before distribution on O.N.E.

We refer you to the suggested reference materials at the end of this letter and to the list of questions included in the Annex. The list in the Annex is not exhaustive and you are encouraged to raise and address other issues in your submission and during the discussion.

We would encourage you to submit a written contribution that describes your perspective and experiences with using economic techniques in merger investigations. Should you wish to provide a contribution, please inform the Secretariat by **11 September 2020**. Written replies to this call for contributions are due **by 30 October 2020** to enable the Secretariat to prepare the summary of the responses in advance of the session. Please note that not meeting this deadline may result in your contribution not being distributed to delegates in a timely fashion in advance of the meeting.

All communications regarding documentation and logistics for this roundtable should be sent to Ms. Angélique Servin (angelique.servin@oecd.org). All substantive queries regarding this session should be sent to Mr. James Mancini (James.Mancini@oecd.org).

Annex I. Suggested questions for consideration in written contributions

1. What proportion of your merger review cases involve economists, and how does your authority determine whether to involve economists (for example, are economists only involved in in-depth reviews, or in cases where a remedy or prohibition may be required)?
2. How does your authority structure its economic expertise? For example, is it primarily concentrated in a single team lead by a chief economist, or is it integrated in each case handler team?
3. At what stage of a merger review are economists involved (e.g. making an initial decision on in-depth review, preparing information requests, negotiating remedies)?
4. What types of quantitative analysis has your authority employed in merger reviews? What criteria does your authority use to select techniques?
5. Does your authority have any experience with the use of surveys in merger review cases? What best practices and challenges have you identified with respect to survey evidence?
6. What is your authority's view of the optimal approach to quantitative analysis? For example, how does your authority decide whether to use new or complex techniques that may be difficult to explain to decision-makers and courts?
7. Does your authority involve economists in the analysis of qualitative evidence? If so, how, and what are the main issues they consider?
8. Does your authority make use of external economic experts? What factors does your authority weigh when making the decision whether to use external expertise, and how do you select external experts?

Suggested Bibliography

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- OECD (2020), *Competition Committee Roundtable: Conglomerate Effects of Mergers*
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