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Global Forum on Competition

ECONOMIC ANALYSIS IN MERGER INVESTIGATIONS

Summaries of contributions

-- Session III --

9 December 2020

This document reproduces summaries of contributions submitted for Session III at the 19th Global Forum on Competition on 7-10 December 2020.

More documentation related to this discussion can be found at oe.cd/eami.

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Economic analysis in merger investigations

-- Summaries of contributions --

Abstract

This document contains summaries of the various written contributions received for the discussion on "Economic analysis in merger investigations" held during the 19th meeting of the Global Forum on Competition (7-10 December 2020, Session III). When the authors did not submit their own summary, the OECD Competition Division Secretariat summarised the contribution. Summaries by the OECD Secretariat are indicated by an *.

*Algeria (in French)**

Durant ses deux mandats d'exercice (2013 à 2020) un nombre insignifiant de notifications de concentrations lui ont été adressées au Conseil de la concurrence (quatre notifications en huit années).

Deux causes essentielles expliquent cette faiblesse :

- Un droit des concentrations qui souffre de quelques ambiguïtés que le Conseil de la concurrence a traité sous forme de propositions aux pouvoirs publics d'amendements à apporter aux textes en vigueur (tels que le remplacement des parts de marché en pourcentage par des seuils de chiffres d'affaires, l'annulation de l'article 21 bis de l'ordonnance 03-03 du 19 juillet 2003 relative à la concurrence, ainsi que l'actualisation du formulaire de renseignements que doivent présenter les parties concernées par la concentration).
- Un environnement économique peu incitatif à la croissance externe des entreprises (fusions, acquisitions, absorptions) et la quasi absence d'entreprises cotées en bourse à laquelle s'ajoute un tissu économique composé majoritairement de très petites entreprises familiales (TPE) et PME.

Dans ce cadre de fonctionnement nous pouvons affirmer que l'analyse économique dans les enquêtes sur les concentrations économiques se situe aujourd'hui à un niveau sommaire et ce, d'autant plus que le nombre d'économistes activant au sein du conseil de la concurrence reste faible (10 cadres supérieurs polyvalents (puisque'il s'agit de rapporteurs et membres du collège) et insuffisamment formés en économétrie ou économie industrielle.

La création d'un service concentrations au niveau du Conseil de la concurrence (inexistant à l'heure actuelle) s'avère indispensable d'autant plus que se pose le problème d'absence de statistiques sur les concentrations d'une part (certaines concentrations étant réalisées à l'insu du conseil) et la nécessité de recueillir des données fiables indispensables à l'utilisation des méthodes quantitatives telles que le HHI, le SSNIP, UPP, UPR, GUPPI.

En l'état actuel, en dépit de la maîtrise de l'utilisation des méthodes quantitatives plus ou moins simples par nos économistes (élasticités prix simple et croisée de la demande, ratio de diversion, HHI et SSNIP) le manque de données ainsi que le degré de leur fiabilité n'incitent pas à s'engager dans cette voie d'autant plus que des sondages et enquêtes de consommation à lancer exigent des ressources financières supplémentaires.

Il faut constater, par ailleurs, qu'il n'est pas fait obligation au Conseil de la concurrence d'appliquer des analyses économiques en ce sens que la loi ne prévoit pas de prendre en compte l'argument de l'efficacité lors de l'analyse d'une notification de concentration.

Le conseil de la concurrence peut et compte contourner cet écueil, en élaborant ses propres lignes directrices.

L'analyse économique se limite aujourd'hui à l'examen du formulaire de l'annexe 2 du décret exécutif n°05-219 du 22 juin 2005 relatif aux autorisations des opérations de concentrations que nous avons évoqué en partie 3 et dont les renseignements demandés ne permettent pas une analyse rigoureuse à même de renforcer la bonne prise de décision.

Il est recommandé en conséquence de réviser les dispositions du dit décret exécutif et notamment son annexe 2 relatif au formulaire et ce, à l'effet de les mettre au niveau des dispositifs des autorités de la concurrence performantes.

En conclusion l'investissement dans l'analyse économique dans les enquêtes sur les concentrations nous paraît de plus en plus opportun eu égard à la complexité grandissante des dossiers de notifications de concentrations (exemple affaire SIEMENS/ALSTHOM) et à l'économie qu'on pourrait en tirer en évitant le recours, le cas échéant, à l'expertise externe.

* This summary is available in French only.

Australia

The Australian Competition and Consumer Commission (ACCC) is Australia's peak competition and consumer agency. The ACCC has an in-house team of specialist economists that work across the full range of ACCC functions.

ACCC economists can be involved at any stage of a merger investigation. However, they usually become involved once a merger transaction is subject to an in-depth public review. In almost all cases, an economist will be involved in phase 2 investigations, as well as any litigations.

Economists involved in ACCC merger investigations essentially become an 'embedded' part of the case team, and they will attend team meetings, provide input into investigative strategy, and review documents. Economists will also be heavily involved in market consultations and the design of remedies.

The ACCC has used several quantitative analysis methods in merger review. The appropriate method is decided on a matter-by-matter basis. It depends on the data that is available, the complexity of the matter and the likelihood of the approach shedding light on the likely competitive effects of the merger.

ACCC economists often help design information requests and are involved in reviewing qualitative information. Qualitative evidence can be useful in providing information about key aspects of a market (for example, how a supply chain operates). The role of the economist in reviewing these types of materials is to assist the merger review team in formulating and testing theories of harm with a view to helping the Commission make a decision as to whether or not to oppose the merger.

The ACCC makes use of external economic experts. This can be to assist with the merger review process where the economic issues are particularly complex and/or require specialised expertise, or to provide evidence in court or tribunal proceedings as an independent expert.

Belgium

A merger investigation is led by the Prosecution service, consisting of both economists and lawyers. When the Prosecution service considers it appropriate, the Chief Economist or a member of the CET will be involved. In practice, the CET will at least be consulted in every non-simplified merger case, but also in case there are strong doubts as to whether a file can be notified in a simplified way or not.

Generally, the CET will be involved already from the outset of the investigation. Sometimes the intervention is limited to a high level review of the case, indicating the main potential concerns, the specificities of the sector that might play a role and some first ideas regarding potential theories of harm. But depending on the complexity of the case, this might rapidly evolve towards an intense collaboration where one or more members of the CET are actively involved in all the different research steps that are undertaken during the merger case review, such as assisting in constructing the RFI's, steering the data requests, joining meetings with the parties and third parties in order to collect valuable information, and reporting and defending the results during the oral hearings. Hereby the CET focus on the economic reasoning of the case, providing methodological assistance and carrying out economic studies.

An initial review based on a limited number of indicators may sometimes suffice to assess the potential impact of a merger. But in other cases, a more detailed analysis of the market and the potential effects of the transaction will be necessary. Such an analysis usually requires in-depth study to better understand the dynamics of the sector and the interactions between consumers and businesses. In the past few years, the CET supported the case teams of the Prosecution service with several types of analyses, varying from relatively straightforward descriptive statistics and visual support of the quantitative results to highly complex quantitative studies including the difference-in-difference technique, switching analyses, catchment area delineation, vertical arithmetics to calculate foreclosure incentives, and the assistance in the construction, processing and analysis of large scale online surveys.

The criterium to decide whether or not to use a new or complex technique does not depend on the difficulty to explain the results to the Competition College and the Courts. So in case the CET considers that a specific model is appropriate, feasible to implement and is expected to give important value added to the case, it will be carried out. However, sufficient attention is paid to translating the often highly technical results into a clear and comprehensible text, amended by visuals, in a way that also non-economists understand the philosophy of the exercise, the underlying reasoning and the way how the results should be interpreted. It is also of utmost importance that the prosecutor in charge clearly understands the reasoning made by the CET. Conversely, economists should understand the legal boundaries of the case team.

Under specific circumstances, independent experts can be consulted. A first reason to involve experts is if it concerns a merger case where very sophisticated knowledge is required, for example on complex sectors like telecom or energy, or on highly innovative methods and techniques. In that case the analysis conducted by the CET can be reviewed by the expert, or even fully outsourced. A second reason is when due to a lack of resources, the CET is not able to execute the required analyses within the time-limits of the investigation. Up to now, the CET has been supported by external experts in two merger case reviews.

Brazil

This Brazilian contribution is aimed at presenting the study on economic analysis of merger control developed by the Administrative Council for Economic Defense (CADE), which was carried out by its Department of Economic Studies (DEE). The first section explains the structure of the Brazilian Competition Defense System (SBDC) established by Law 12529/2011. CADE is currently constituted by three bodies: a) the Administrative Tribunal of Economic Defense (Tribunal); b) the General Superintendence (SG); and, c) the Department of Economic Studies (DEE). The second section focuses in detailing the number of decisions by the SG and the Tribunal and highlights the relevant role of the DEE in the decision-making process of the Brazilian antitrust authority. For instance, between 2015 and 2019, taking into account all the decisions on proceedings involving merger review, the DEE contributed to approximate 50% of the cases considered complex by the SG and to about 40% of the Tribunal decisions. After, this paper exposes, briefly, some studies carried out by the DEE in recent times. The technical opinions selected are related to the cases ArcelorMittal-Votorantim, Ultragaz-Liquigás, and Ipiranga-Alesat. These cases were chosen as examples because they show the wide range of analyses carried out by the DEE to subsidise the opinions and decisions of the SG and the Tribunal; in addition to offering an overview of the quantitative methods used for assessing the potential anticompetitive effects of mergers and acquisitions. With regards to subjects covered in the technical opinions issued by the DEE during this timeframe, it is worth mentioning the following: the definition of what constitutes a relevant market; unilateral effects; coordinated effects; competition levels; market limitation; entry barriers; antidumping; bargaining power; and effects of the adoption of remedies. Finally, it includes some final considerations and an Appendix that lists the technical opinions issued by the DEE from 2015 through 2019.

Canada

Canada's Competition Bureau ("Bureau") recognises the importance of economic analysis in undertaking merger reviews. The Bureau's statutory framework, laid out by the Competition Act ("Act"), requires the Bureau to demonstrate that a proposed merger would likely result in a substantial prevention or lessening of competition ("SPLC") in one or more relevant markets in Canada. This framework also allows the merging parties to submit relevant information and analysis on efficiencies in order to offset any anti-competitive effects of the proposed merger. Recent jurisprudence from the Supreme Court of Canada has elevated the importance of quantifying the potential anti-competitive effects of mergers, including the potential price effects and the calculation of deadweight loss.

The Bureau utilises a combination of internal and external economists to in order to quantify the potential anti-competitive effects of mergers. Bureau economists work closely with case teams on all aspects of complex merger reviews and are generally involved early in the merger review process. External economists typically provide independent economic analysis to the Bureau, and may testify at Competition Tribunal ("Tribunal") hearings where concerns raised by an anti-competitive merger cannot be resolved consensually. The Tribunal is the quasi-judicial adjudicative body for all civil competition disputes in Canada. The Bureau continues to stay apprised of developments in economic analysis in order to ensure that its merger control function remains effectively executed in Canada.

Colombia

This contribution describes the role of economic analysis for Colombian merger reviews as provided by merger law and its guidelines. We present how economic considerations factor into merger assessment and into the decisions taken by the Superintendence of Industry and Commerce. This document also provides case studies to show some specific methodologies adopted by the Superintendence for economic analysis in its review.

Denmark

This contribution outlines and discusses the considerations taken by the Danish Competition and Consumer Authority (the DCCA) when deciding upon which economic methodologies to apply in a given merger investigation.

So far, most in-depth merger reviews have involved the quantification of unilateral effects of horizontal mergers using the standard workhorse methods widely applied by many authorities, including Critical Loss Analysis, Upwards Pricing Pressure (UPP) and Compensating Marginal Cost Reductions (CMCR), Illustrative Price Rise (IPR) as well as calibrated and estimated merger simulations. Examples of other methods exist as well.

Access to relevant data is crucial, and the DCCA has extensive experience with gathering data from a wide range of sources, including market surveys among customers and competitors, accounting data from merging parties and rivals, data from centralised sources (e.g. government-run agencies and data aggregators), as well as from decentralised data sources (e.g. sales data from individual firms).

When deciding upon the level of sophistication aimed for in a given merger investigation, the DCCA carefully considers the benefits and costs of deepening the analysis further. Applying more advanced methods has the potential to significantly reducing the inherent uncertainty of the quantitative analyses, depending on the specific circumstances of the case. The most advanced economic analyses tend to have the greatest value in merger cases, where the qualitative evidence and screening measures are relatively weak, ambiguous, or suggest relatively modest anticompetitive effects (the “yellow” mergers). In such cases, applying more advanced methods can potentially tip the scales in either direction by reducing the uncertainty and by strengthening the evidence pointing in either the “red” or the “green” direction. The costs of more advanced economic methods are typically in the form of requirements of higher quality data, which take more time and more developed analytical skills to analyse.

The DCCA will decide to deepen the investigation and apply more advanced methods, if the benefits of doing so can be expected to justify the costs in the specific case. In cases, where narrowing the uncertainty is vital for the assessment of the merger, the DCCA is prepared to allocate the resources needed for a deep and thorough investigation.

Ultimately, while quantitative economic analysis is a valuable part of merger assessments, such analysis cannot by itself deliver the conclusive answer to whether or not a merger is likely to significantly impede effective competition. Even the most advanced quantitative analysis entails simplifying assumptions and other caveats and there will inevitably be factors that the analysis cannot account for. Every merger investigation therefore involves an overall assessment and balancing of all the qualitative and quantitative evidence.

Hungary

The contribution briefly explains the role of economists and economic analysis in merger cases at the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH). The paper first describes the institutional structure of the GVH, the merger review process and the usual ways in which economists are involved in such cases. In this context, the Merger Section is responsible for reviewing all notified transactions. The Merger Section is composed of lawyers and economists. The chief economist team is involved in those merger cases where there is a concern that the transaction may substantially lessen competition. Nevertheless, they are not involved in every Phase II case; their participation is usually limited to those cases that may require a remedy or prohibition or the use of economic analysis to support market definition.

Then, the paper focuses on the use of surveys in merger investigations, while the final section demonstrates how other quantitative and qualitative methods have been applied in specific merger cases. Due to the very strict schedule of the merger review process and the time needed to execute a survey, the GVH only rarely uses consumer surveys in merger cases. Their use is mainly limited to those cases where understanding consumers' perceptions and reactions is crucial for evaluating whether there is a chance that the merger in question will result in a loss of consumer welfare. Apart from surveys, the GVH often relies on economic evidence and analyses in merger cases. In a simple case only market shares are calculated, while in more sophisticated cases a number of other analytical tools are also used. Economic analyses are applied as part of both the market definition process and the competitive assessment.

India

Economic analysis forms an important input for assessment of combination cases in the Competition Commission of India (CCI). It helps in structuring the analysis in terms of identifying theory of harm, delineating relevant product and geographic markets, understanding the market structure and dynamics, and likely effects on competition as a result of proposed combinations. Economic expertise is used at each stage of a merger investigation, from gathering data and collection of information till implementation of remedies.

Economists are an integral part of case teams of Combination Division, contributing at every stage of merger review right from initial stage till the end. The composition of case teams include economists, legal professionals, and financial analysts, and at least one economist is part of each case team. In addition, there is a separate Economics Division in the Commission that provides independent assessment of cases that are referred to it depending on the complexity and nature of the case. This reflects the emphasis on economic analysis placed in the assessment of cases.

The Commission employs a wide spectrum of Economic tools and techniques including both quantitative and qualitative analyses. The quantitative analysis most often applied in the assessment of merger reviews are concentration ratios and price analysis in order to check the likely effects on competition in the markets. Apart from Market share, HHI and Concentration ratio, the Commission uses various other tools and techniques such as diversion ratios, churn rates etc. wherever warranted.

Five Case studies are included to this submission. The application of economic concepts in the merger investigation is evidently helping the Commission take a balanced view of proposed combinations weighing the likely harm and benefits due to the proposed combinations. Some of the multiple instances where the economic inputs played a decisive role are discussed in the above case studies. The fact that majority of the economic inputs are derived from basic economics such as HHI, critical loss etc. compared to more complicated econometric techniques which are used occasionally, helped the case teams in explaining the effects in simplified way to the decision makers. This in turn has resulted in final decisions that strike a balance between reducing the consumer harm on one hand and increasing efficiencies and innovation from the other. Secondly, our analysis has also been helpful in explaining to the parties, the likely harm to competition and has led to parties offering voluntary remedies.

Indonesia

Most of the Merger Analysts at ICC are economists so that economists are integrated into every internal team of merger and acquisition assessment. External economists are employed for cases that involve a comprehensive assessment, including, to assess efficiency in the market as a result of the merger, conduct Upward Pricing Pressure (UPP) analysis, and/or assist in defining the relevant market in cases where the assessment is more complex, such as, the case of the digital economy with the multi-sided market.

The focus of merger assessment conducted by ICC itself is more on seeing the potential for the emergence of monopolistic practices and unfair business competition in merger transactions so that ICC pays more attention on the qualitative aspect as compared to the quantitative one following the determination of the market concentration analysis. Referred to as qualitative aspect here includes, among other things, information on business actors related to the transaction, the existence of business actor associations, the potential for increased coordination of information exchanges among business actors following the occurrence of merger transactions, and the like.

In the meantime, the quantitative analyses that used by ICC were, among other things, Unilateral Effects Analysis, Coordinated Effects Analysis, UPP, and GUPPI. In determining the quantitative analysis used, data availability is a decisive factor. The analysis method considered optimal is the Upward Pricing Pressure (UPP) because the data used is the data provided by the parties. Meanwhile, the use of new analysis methods usually needs to consider the availability of data and/or the assessment period, because it is not yet confirmed that the parties will be able to provide the requested data during the assessment period. In conducting quantitative analysis, ICC sometimes also employs external economists to assess cases in complex sectors.

Survey method was used by ICC, particularly in determining the definition of the relevant market. The positive impact of the use of survey method is the gain of real data that is in accordance with the facts in the field, but the challenge in the use of this survey method lies at building a strong argument that the data obtained from the survey results are valid.

Conclusion

The presence of internal and external economists in assessing merger and acquisition cases is so important, apart from being able to assist in analyzing market concentration and determining the relevant market, such economists may also help provide perspectives in qualitative analysis.

Meanwhile in determining an analysis method to be used in a case, the availability of data serves as the main decisive factor, but the more frequently used and deemed more optimal method is the Upward Pricing Pressure (UPP) method, since the data used is data provided by the parties engaged in the transaction.

Japan

In recent years, economic analysis has been increasingly important in competition law enforcement, especially in individual merger review processes. In the process of analyzing market definition or potential competitive harm after the merger, economists play an important role for providing quantitative and/or qualitative analysis depending on characteristics of cases.

This contribution paper presents an organizational approach concerning economic analysis within the Japan Fair Trade Commission (hereinafter referred to as the “JFTC”); the role of economists in merger reviews; detailed methods of economic analysis and experiences on two actual merger cases ((i) Z Holdings Corporation/Line Corporation and (ii) Matsumotokiyoshi Co., Ltd/Cocokara Fine Inc.) that were mainly assessed from quantitative analysis viewpoint.

Kenya

The Competition Authority of Kenya ('the Authority') safeguards competition by regulating market structure and market conduct. Regulation of market structure involves analysis of mergers, while regulation of market conduct involves investigation into restrictive trade practices and conduct, such as abuse of dominance, price fixing, bid rigging, among others. There is relatively a low level of economic knowledge and understanding of competition issues among private parties and their legal advisors. As a result, the legal advisors often tend to be more inclined to fixate on legalistic form rather than the effects of economic behaviour. This can act as a brake on the Authority adopting a more economic-based approach.

The Authority annually conducts training on economic analysis of mergers with emphasis on invoking arguments along the lines of economic analysis as opposed to legal evidence in merger analysis. To focus on the key stakeholders in capacity building capacity and in remedying the situation, the Authority has between 2018 and 2020 cumulatively trained over 180 stakeholders. Further, the Authority in its own motion continuously publishes Guidelines such as Market Definition Guidelines and Consolidated Guidelines on the Substantive Assessment of Mergers so as to improve the economic knowledge among the legal fraternity. Economic models should be presented in a non-technical but accurate way, with explanations as to how they work, why the one chosen is more suitable to the particular task, and how it leads to particular conclusions based on the facts of the specific case. Assumptions relied upon are disclosed, including explaining why alternative assumptions and certain parameters were not used, based on expertise knowledge, experience and evidence in the case of market specific merger investigations.

Firstly, some of the cases highlighted in this contribution are on *merger in the Telecommunication Sector - Airtel and Telkom* - where structural remedies were proposed for the merger in relation to the licensing agreements and spectrum allocation due to possibility of coordinated effects in the market and the high barriers to entry in the upstream market for spectrum. Secondly, *Competition in the Beverages Sector - Almasi Beverages Limited and Coca-Cola Sabco* - where the Authority imposed structural remedies to address the identified theories of harm; in other words, the merged entity shall reserve the lower deck of the refrigerators lent to the SMEs' for other non-Coca-Cola branded products. Henceforth, the distributors are expected to construe a fully stocked SME refrigerator to mean stocked with Coca-Cola branded products in all the decks save for the lower deck. The bottlers to expressly allow their distributors to supply other NARD without any explicit or implied constraints; and Coca-Cola to amend its agreements in the market by removing clauses which stipulate the prices and profit margins for the sale of its products.

Korea

KFTC's personnel related to economic analysis

At the Korea Fair Trade Commission (“KFTC”), the Economic Analysis Division (“Division”) which consists of five economists who have expertise in economic analysis is in charge of economic analysis in merger investigations. The Division has conducted economic analysis around 2.5 times a year in merger cases. The economists who perform economic analysis for merger investigations participate in every stage of a merger review from beginning to end including review of merger notification report, request for data necessary for economic analysis, review of economic analysis submitted by experts from merging parties, market definition and assessment of anti-competitiveness using economic analysis, and design of required remedies.

Methods used in economic analysis

In merger reviews, both theoretical and empirical approaches are used. When assessing mergers in emerging industries such as the platform market, in particular, theoretical models can be used to determine whether there would be anti-competitive effects post-merger and what kind of remedies would be needed. For quantitative analysis, traditional economic analysis techniques such as Critical Loss Analysis (CLA), Aggregate Diversion Analysis (ADR), Upward Pricing Pressure (UPP), Compensating Marginal Cost Reduction (CMCR), and merger simulations have been employed. In 2019, the Division modified UPP formula to examine two pay-TV merger cases. Reflecting the market circumstances such as consumer behaviors and product characteristics, the existing methodologies were modified in a reasonable manner.

Use of external experts

The KFTC is working with outside experts in the forms of consultation and entrustment of research services. Consultation is used usually when the KFTC wants to hear opinions of external experts on KFTC's economic analysis in order to examine the validity of the economic analysis and the adequacy of the quantitative economic analysis, etc. Entrustment of research services is to utilize new economic analysis techniques, complement the Division's analysis and enhance objectivity of analysis. Cooperation with outside experts has played a significant role in increasing efficiency of economic analysis.

Latvia

Explaining the role of economists in merger investigations at The Competition Council of Latvia (The CC), economist's degree of involvement in each case may vary, depending on the complexity and the possibility to implement economic methods as well as the case handlers background. The CC's Economic Analysis Unit, consisting of three economists, provides methodological support during case investigations, as well as implements in-depth analysis of market processes during sector inquiries. Usually economists are involved at an early stage in mergers, who are more likely to enter in-depth investigation. In such cases, economists are involved in the whole process, including in the process of identify candidate theories of harm and sources and types of evidence needed and designing and negotiating remedies. In many cases, it is possible to eliminate all potential theories of harm using qualitative evidence without quantitative analysis. So, it is important to fully involve the economists in the merger process to allocate limited resources in analysing various aspects of the case and theories of harm more thoughtfully. Also, there is an ongoing trend for economists to get involved in court proceedings if The CC's merger decision is appealed. Courts more actively appoint outside economic experts to scrutinize The CC's economic assessment and its conclusions.

The CC approach is to use economic analysis methods which has been successfully implemented in other jurisdictions, considering a various aspect (*time, data, theory of harm*) when deciding about what quantitative analysis to conduct. Once the CC starts to determine the potential theories of harm, economists begin to determine what analysis would be helpful to evaluate identified theories of harm and what data must be collected. As the case and economic analyses progresses, economists and case team might eliminate some theories of harm because preliminary results show that are no competition problems. Also, if necessary additional information might be gathered and economic analysis used to test the more credible theories of harm. The CC has used in its practice consumer surveys, consumer switching analysis, natural experiments and vertical arithmetic, and has not used any advanced quantitative techniques like demand estimation or merger simulation.

Even though The CC has not had extensive experience in organizing and conducting consumer surveys, The CC describe consumer survey challenges commissioned by the CC in 2018. Firstly, to invite research agencies to assist in conducting the consumer survey. The assistance of the experts would help the competition authority formulate questions that accurately measure the opinions and behaviours of consumers and lead to better survey results overall. Secondly, few challenges regarding consumer surveys:

Stated vs revealed preferences - preferring survey design that are about choices that individuals have made not about what individuals would do,

Question design - questions should never be worded in a way that'll sway the consumer to one side of the argument,

Transparency – the possibility to give merging parties the ability to comment questionnaire

In mergers, where an in-depth analysis will be carried out, economists not only provide quantitative analysis but also assist in evaluating qualitative evidence. Focusing on evidence regarding market definition and competitive assessment but also on evidence that are relevant to quantitative analysis used in current case. Also, by analysing qualitative evidence, often providing case handlers the conceptual framework to assess merger effects.

Lithuania

Economic analysis team in the Competition Council of the Republic of Lithuania (the CC) operates as a separate unit and conducts economic analysis themselves and ensures the quality of the economic analysis of other administrative units.

Economists do not participate in every merger investigation of the CC from the start. In complex merger investigations economists are always involved at the early stages of the analysis. In other procedures case handlers can request advice of economists at any stage if needed. When EAG does not actively participate in the review process, economists provide their opinion on the economic issues before the CC's decision is taken.

The general trend in Lithuania is the increasing use of economic consultancy services by merging parties. Economic tools used in recent in-depth merger analysis include the following methods: assessment of catchment areas; SSNIP analysis; consumer data analysis. The CC also increasingly relies on quantitative data. The CC often asks opinions of competitors, buyers and suppliers of merging parties and takes them into account in merger reviews.

When case handlers and economists of EAG have difficulties in economic assessment of a merger, they may approach external economic experts of the CC's Advisory Committee.

As a general tendency, economics plays increasingly important role in the decision making of the CC regarding mergers.

Mexico

Summary (COFECE)

In the past seven years, significant progress has been made in Mexico's merger review. Among other measures, the Federal Economic Competition Commission (COFECE or Commission) has systematically implemented actions to strengthen its internal capacity in merger review, allocating greater resources to the Mergers Unit (in charge of the merger review procedure), increasing the number of case-handlers and promoting the integration of mixed teams, aiming at efficiently address the growing complexities of mergers and reinforce its economic analysis.

During merger review, COFECE's Merger Unit conducts a legal and economic analysis. Economists are involved throughout and participate in the entire process: initial review, crafting of information requests, negotiation of remedies, assessing efficiencies, as well as the general assessment of the merger, which involves understanding how the market works, formulating credible theories of harm and evaluating these theories.

Economic analysis is embedded within merger control, not only in the use of econometric or other statistical tools, but in providing the conceptual framework in which to analyse the functioning of markets and assess the possible effects of a merger, developing and defining theories of harm. Also, COFECE always complements the use of quantitative tools with other types of evidence.

Finally, it is important to stress that tools and methods to be implemented when assessing a merger are chosen on a case-by-case basis. Therefore, depending on the characteristics of the transaction, different types of analyses may be used. The strategy to be taken by COFECE in each case will be defined by the availability of data; collected qualitative and quantitative evidence; complexity of the merger; time and resources needed to review the transaction; among other relevant aspects.

Summary (IFT)

This contribution describes the practice by the Federal Telecommunications Institute (IFT) regarding economic analysis in merger control, its legal framework, and the involvement of economists that participate in this process. It also outlines the assessment of the AT&T/Time Warner merger case, that the IFT authorized in 2017, subject to conditions, which was finalized in 2018.

The Mexican Federal Economic Competition Law (LFCE) establishes a single merger control regime and criteria of general application. It provides the elements to define the relevant and related markets involved, the degree of concentration in the analyzed markets, the existence of barriers to entry, the possible effects that arise from the merger, the efficiency gains, and the elements to identify signs of an unlawful merger. The legal framework is broad enough to allow the IFT to use of all kinds of economic tools and models in each of the stages of its merger analysis.

The economic analysis in mergers is carried out by the General Direction of Mergers and Concessions of the Economic Competition Unit, which collaborates with other areas of the IFT. The economic tools used by IFT range from the relevant market definition and the concentration index to the development of economic models in complex cases, which include the application of quantitative economic techniques such as merger simulations, diversion ratios, pricing pressure indices, critical loss analysis, and various econometric models.

Since September 2014 to this date, the IFT has processed 28 mergers, imposing conditions on six of them; four of which have involved structural divestitures. In the AT&T/Time Warner case, the IFT used an arithmetic type model to evaluate the possible vertical effects of the operation. It concluded that the merger could generate competition risks due to vertical effects in the markets for the provision and licensing of programming channels to Pay TV providers and for the provision of Pay TV services to end users. Therefore, it imposed various conditions to counteract the anticompetitive effects.

Norway

The Norwegian Competition Authority (NCA hereafter) has a staff where approximately 50 per cent are economists. Among the economists, some are generalists working in the market departments, and some are specialists working in the chief economist's team. A significant part of the economists at the NCA have a Ph. D.

For the NCA, merger review is an important part of its tasks, as defined by the Competition Act. Economists are an integral part of all case teams for all merger cases, in addition to cartels and cases involving alleged abuse of dominance. A typical case team consists of 50-50 economists and lawyers, led by an experienced staff member, which can be an economist or a lawyer.

A specialist economist from the chief economist's team will be assigned as a resource person for all prioritized cases, and follow the case to its final conclusion. The economists assigned to case will not the least have an important role in the early phases of the case relating to forming a "theory of harm" and identifying the information needed to test the hypothesis, be it qualitative (eg. internal documents) or quantitative data (eg. survey).

The NCA uses a range of analytical tools in its enforcement work, not only in mergers. Economists in the chief economist's team has also led the work using sophisticated econometric techniques in eg. cartel screening. The chief economist and the resource persons from the chief economist team will be instrumental in securing the quality, and the use of the proper analytical and empirical approach in each case.

Moreover, the NCA has systematically built competence and capacity related to various quantitative economic techniques through an internal Network for quantitative analysis, spearheaded by the chief economist's team.

In addition to describing the role and importance of this internal network, this contribution also gives an overview over the NCA's responsibilities related to merger control, its organizational structure, the role of economists in the case teams, as well as the various quantitative economic techniques used.

In addition to internal network, the NCA also benefits from active involvement in external networks, not the least relating to the exchange of experiences using economic techniques in merger control. A prominent example is the network for the Nordic chief economist's teams and the network of the chief economists in the European Competition Network. The former will be briefly presented in this contribution. As a final note, this contribution will also present an additional tool for enhancing the quality and effectiveness of economic analysis: Guidelines for external parties when providing economic analysis.

Portugal

The use of economic analysis plays a central role in the merger control activity of the Portuguese Competition Authority (Autoridade da Concorrência - AdC), since it provides the necessary tools and conceptual framework to analyse the functioning of markets and to assess the likely effect of mergers.

In most merger cases, at least one lawyer and one economist work in tandem and integrate the case team as from the beginning of the investigation. In addition, more complex cases may trigger the involvement of the chief economist team and economists with relevant sector expertise.

Economists are involved in every stage of a merger investigation: from the analyses of the information submitted by the parties to the design and preparation of information requests, from the interaction with the parties and third parties during the investigation to the negotiation of remedies.

Quantitative analysis plays a central role in the AdC merger reviews. In simple merger cases, straightforward market structure analysis (based on market shares, the Herfindahl-Hirschman Index and other concentration indexes) together with a general assessment of potential restrictions to competition in the industry (e.g. entry barriers, sector specific regulation) is frequently sufficient for excluding the possibility of anticompetitive effects arising from the merger.

However, more complex merger cases demand further analysis, namely a more accurate understanding of the functioning of the markets, which in turn, will be key to address and test possible theories of harm. For that, relevant industry data must be gathered in order to assess a variety of dimensions that, altogether, build up the case's assessment.

Qualitative analysis is also important in merger review, since it can provide, amongst other elements, a better understanding of the functioning of the markets. Not only can it contribute to identify transactions that do not give rise to competitive concerns but, as mentioned before, qualitative evidence might complement the results of more sophisticated economic tools supporting conclusions about whether a merger is likely to significantly harm competition.

Surveys must be carefully designed in order to collect accurate data, which can be challenging due to time constraints of merger investigations. Notwithstanding in the AdC's experience in certain circumstances surveys may be fundamental for the robustness of the results of the foreclosure analysis.

In recent years, the AdC has undertaken a number of merger investigations where more complex economic analysis played an important role in the merger assessment.

Russian Federation

Control over economic concentration is one of the main directions of antimonopoly policy, the purpose of which is to prevent changes in the market structure in a direction that creates risks of restricting competition.

FAS Russia uses all the necessary tools for economic analysis of the possible impact of the transaction on competition.

Approaches to economic analysis are contained in a special regulation “Procedure for assessing the state of competition in commodity markets”¹, approved by the FAS Russia, together with the general recommendations of the FAS Russia on the application of this regulation. In accordance with this document, a unified methodology was adopted for conducting economic analysis not only by the central office of the FAS Russia, but also by 84 FAS regional offices.

The FAS Russia has also prepared a draft recommendation on merger control, which is expected to be adopted shortly.

The Recommendations contain clarifications of the main substantive and procedural issues of mergers and acquisitions control, based on extensive law enforcement practice and modern approaches to the analysis of transactions, decision-making and the formulation of instructions that FAS Russia is guided by.

Commission for the analysis of commodity markets operates at the FAS since 2012 and includes representatives of the structural units of the FAS Central Office and the FAS Regional Offices, Public Advisory Council and expert councils of the FAS, other government authorities, as well as representatives of business, public associations and scientific organizations.

The Commission's functions include consideration of proposals made by representatives of the FAS and drafting plans of the agency's work for the analysis of commodity markets, guidelines for the relevant analyses and their approval, as well as reviewing the materials of the analysis of commodity markets.

¹ Order of the FAS Russia dated 28.10.2010 No. 220 “On approval of the Procedure for assessing the state of competition in commodity markets”: <https://fas.gov.ru/documents/576468>.

Singapore

A wide range of quantitative tools are available in an economist's toolkit to assess the likely effects of a merger. As with other competition authorities, many of these quantitative economic techniques have been applied by economists in the Competition and Consumer Commission of Singapore ("CCCS") in merger reviews. These range from an analysis of market shares, win/loss ratios to econometric analyses.

Singapore operates a voluntary merger notification regime. Where mergers are notified, CCCS evaluates them in two-phases. In a Phase 1 review, CCCS performs a quick assessment, expected to be completed within 30 working days, to rule out non-problematic mergers. In a Phase 2 review, CCCS conducts a more detailed assessment, which it endeavours to complete within 120 working days.

Many factors influence the choice of technique used by CCCS economists across mergers. Some factors include data availability, the ease of data collection and processing, the time available for merger review and the likelihood of competition concerns. Given these considerations, CCCS' approach is to 'economise' the appropriate technique(s) by using those that are most appropriate to find the answers to the theories of harm raised given the constraints and circumstances relating to the specific mergers, instead of finding one best technique that can be applied to all mergers or pursuing the most sophisticated technique available.

In CCCS' experience, sophisticated quantitative techniques are generally more appropriate in a Phase 2 review. Simpler quantitative techniques are useful in Phase 1 reviews and can be convincing when paired with qualitative evidence, such as strategic documents. Simpler quantitative techniques also generally provide a useful starting point for the application of more advanced techniques. Smaller economies like Singapore also have the advantage of being able to perform quantitative analysis at a granular level and glean valuable insights where the competition concern relates to the Singapore market and the quantity of data is manageable.

Spain

This contribution by the CNMC provides a brief analysis of the Çimsa's acquisition of Cemex's white cement business, which was cleared with remedies by the CNMC in September 2020. The complexity of the case made the CNMC conduct a deep economic analysis, which is summarized below.

In this regard, section one provides a brief introduction of the case; section two deals with the definition of the relevant market and the main economic analyses carried out before and after the parties submitted a remedies package (i.e. isochrones, market shares, alternatives of supply for the clients after the transaction, prices and margins).

Section three finalizes with some relevant facts of the case such as the conclusion that bulk and bagged white cement were different markets, the geographical market definition for bulk white cement by 400 km radius around the cement manufacturing plant and the ability of the package of remedies to eliminate the negative impact of the transaction in the Spanish white cement market.

Sweden

This contribution begins by summarising the structure of economic expertise within the Swedish Competition Authority. The Chief Economist leads the Chief Economist Unit (CEU), which has around 10 senior economists with PhDs in economics. Apart from the CEU, there are also economists with extensive experience working as case handlers in other units within SCA, e.g. the Cartels and Mergers Unit and the Market Abuse Unit.

The contribution then considers the stages of economists' involvement in merger review. During an investigation, economists are involved to different degrees depending on the type of merger in question. In very broad terms, mergers notified to the SCA can be grouped into three categories, although it should be noted that there is no formal classification of different types of mergers in the Swedish merger regime.

The question of quality control of economic analysis prior to decision-making is then considered, including the critical assessment of economic evidence conducted by members of the CEU that have not been involved in the investigation, and the role of the chief economist in cases where the director general adopts a decision.

The contribution then looks at the types of quantitative analysis undertaken, including considerations relating to the employment of new or complex techniques, as well as the role of qualitative analysis. Finally the contribution turns to the SCA's experiences of the use of surveys, which are often used in phase 2 investigations and are also utilised in a limited number of phase 1 investigations, especially for mergers involving consumer products.

Chinese Taipei

This report is intended to describe the economic analysis procedure and methods adopted by the Fair Trade Commission (hereinafter referred to as the FTC) of Chinese Taipei in merger regulations and also to share its experiences in the application of economic analysis in the review of merger cases.

On Feb. 6, 2012, after reviewing the law enforcement experiences of different countries, the FTC created the Information and Economic Analysis Office and also established the Division of Economic Analysis under it. To ensure the proper execution of economic analysis in cases under investigation, the FTC also announced the “Principle of Application of Economic Analysis in Investigations.” So far, economic analysis has been the most frequently applied form of analysis in merger cases.

Economic analysis includes qualitative analysis and quantitative analysis and there are many analytical approaches as far as mergers are concerned. The methods of economic analysis adopted by the FTC in merger cases are increasingly diverse and the analysis is also becoming more and more meticulous, while the timeliness and efficiency of the merger review is also taken into consideration.

Besides, when cases involving significant competition restraint concerns, the FTC will invite external economic experts or other stakeholders to attend workshops and public hearings, so that the FTC can objectively take opinions from different sectors into consideration and use them as reference when evaluating whether a merger may impede competition.

Turkey

Competition law is an area where law and economics intersect. Moreover, the role and influence of economic analysis and economists in this particular area has been substantially growing, especially in the last two decades. In line with this global trend, The Turkish Competition Authority (TCA) has been increasingly building its capacity on advanced economic analysis tools and using these methods in its decision-making processes more frequently.

Turkey's merger control regime is similar with that of the EU from a substantive point of view. According to the Article 7 of 'the Act No: 4054 on the Protection of Competition' (the Competition Act) mergers and acquisitions which would result in a significant lessening of effective competition are prohibited.

Economic Analysis and Research Department (EARD) is the special unit within the TCA, which has the major role to conduct advanced economic analyses that are needed in investigations. The TCA has also a good number of competition experts -the professional staff working as case handlers under six Supervision and Enforcement Departments (SEDs) - with an economics background.

Since every SEDs have a number of case handlers with economics background, in the vast majority of all merger cases, at least an economist takes part in case teams. However, economists working at the EARD typically involve in cases during final examination –the in-depth review phase.

The economists from the EARD normally conduct advanced economic analysis methods that are needed in cases. Nevertheless, involvement of this staff is not limited to use of those methods. Upon the assignment, economists working at SEDs and the EARD take part in all stages of a merger case, starting from meeting with parties and designing request for information letters (RFIs) to conducting qualitative and quantitative analyses.

For the purpose of market definition, the TCA generally uses hypothetical monopolist test, several price co-movement tests such as price correlations, causality, stationarity and co-integration tests, along with usual qualitative analyses.

The TCA also uses a variety of methods on the assessment of potential unilateral effects, from simple HHI and price concentration analyses to upward pricing pressure (UPP) test. In some exceptional cases, merger simulation techniques were also used.

The TCA believes that competitive analyses in each merger case should be carefully selected and conducted on a case-by-case basis. Complexity of the case, availability of high quality and variety data and time constraints are main drivers for the selection. The TCA also believes that any kind of quantitative analysis should be regarded as complementary to and evaluated together with carefully conducted qualitative analyses revealing market realities.

The TCA has not used external survey providers in merger cases to conduct consumer surveys. However, in most of the merger cases that are taken to in-depth review, the RFIs sent to customers include carefully designed survey questions to reveal demand side substitution patterns within the relevant market. The same mainly applies for outsourcing economic expertise. The quantitative analyses that has been used in merger cases so far has been conducted by in-house staff of the TCA and no outside economists have been commissioned, although there is no legal or financial barrier for outsourcing.

Ukraine

The bodies of the Antimonopoly Committee of Ukraine (hereinafter – AMCU) exercise merger control to prevent monopolization of the markets, abuse of monopoly (dominant) position, restriction or distortion of competition.

Despite the fact that AMCU was launched in 1992, in July 2017, the Chief Economist unit became an autonomous Economic Analysis Department responsible for economic analysis, planning and reporting on the activities of the AMCU with its eleven employees according to the staff schedule.

When considering M&A cases, the State Commissioners may involve the Department of Economic Analysis to provide professional opinions as a part of a case team.

To carry out economic analysis, economic experts use analytical tools and other sources of information, in particular, financial statements of enterprises, strategic documents, questionnaires, other open data, etc.

An example of involving economists in the investigation of M&A can be illustrated through the AMCU’s decision on the acquisition by Metinvest Group shares of the company “Dniprovskiy Coke Plant” (hereinafter – DKHZ) that are competitors in the markets of blast furnace coke and by-products of its production.

The economic analysis of this case was carried out in two stages: assessment of the case itself and analysis of the behavioral remedies assumed by the companies in order to avoid the negative consequences on competition from the acquisition.

The Department investigated the relevant groups of factors, namely:

1. Market shares of the parties to the merger in the by-products markets involved. Combined shares of the companies after the merger in the markets are significant.
2. Analysis of possible anticompetitive effects of vertical merger. Potential anticompetitive effects could be: increase in price or restriction of access to products and impact on the markets by ousting of competitors.
3. The probability that the market power of the buyer will act as a balancing factor in the anti-competitive effects of the merger. There is a market power of the buyer in the pitch market, because there is no alternative to its implementation.
4. The probability that the entry of new competitors will act as a countervailing factor in the anti-competitive effects of the merger. Ability of competitors to switch to alternative sources is quite problematic and associated with risks due to time constraints, as well as increases the costs
5. Falling firm defence. Bankruptcy risk of DKHZ was assessed using the Beaver ratio and the Altman multifactor model. This acquisition provides an opportunity to improve the financial condition of DKHZ and prevent bankruptcy, and, consequently, the probable exit of the company from the market.

Taking into account the analysis, this acquisition may lead to restrictions of competition in certain markets for coke by-products.

As a result, economic analysis is a necessary and important component in merger investigations. It helps to establish the factors and consequences of the financial condition of economic entities and the impact of its activities on the general market situation. Accordingly, it plays an important role in building market relations and effective competition policy.

United Kingdom

There is a continued need for strong and effective merger enforcement in order to safeguard competition, prevent anti-competitive mergers, and protect consumers. Economics is an essential part of effective merger enforcement, as it provides the conceptual framework to assess merger effects. Additionally, effective merger enforcement relies on the merger assessment being firmly rooted in evidence. Economic analysis is often key in interpreting this evidence.

As a consequence, economists play a central role in CMA merger investigations. They are embedded in merger case teams and are involved from the very beginning of cases. Their contribution includes gaining an understanding of the industry, developing the economic framework within which the CMA assesses the effects of the merger, and leading the approach to gathering and interpreting evidence.

CMA economists work with other professions to determine what different types of evidence and analysis to employ and the evidentiary weight that should be applied to different pieces of evidence. Such evidence can include shares of supply, third-party views, internal documents, tender analysis, surveys, and econometric analysis.

The CMA employs a flexible and case-specific approach to deciding what evidence to gather and place evidentiary weight on in its merger investigations. In particular, the CMA considers each merger with due regard to the particular circumstances of the case, including the theories of harm being investigated, the nature of competition in the market, the information available and the time constraints applicable to the case. In deciding upon its approach to evidence gathering, the CMA aims to select the approach that leads to a robust assessment in the most efficient way.

In addition to their direct involvement in cases, economists are key in developing the CMA's toolkit and approach for assessing mergers. For example, economists have developed approaches for assessing competition in dynamic markets and assessing the constraints between merger firms as potential competitors to each other. They have also led the shift away from approaches which rely upon measures related to a rigid definition of the market to evidence that speaks directly to closeness of competition between firms. These developments have contributed to the CMA's revised Merger Assessment Guidelines, which have recently been published for consultation.²

² See <https://www.gov.uk/government/consultations/updates-to-the-cmas-merger-assessment-guidelines-cma129>

United States

Economists at the United States Antitrust Agencies are organized into independent economics groups: the Bureau of Economics at the FTC; and the Economic Analysis Group at DOJ. The heads of these groups, the Bureau Director at the FTC and the Deputy Assistant Attorney General at DOJ, report to the Commission and the Assistant Attorney General.

Economists work together with attorney colleagues on all merger investigations that proceed beyond initial screening after one agency or the other has received clearance to pursue an investigation. In the early stages of an investigation, economists typically review information submitted by the parties in their premerger notification documentation and participate with attorneys in initial interviews with industry participants. As the investigation progresses, economists build on that understanding to develop analyses to shed light on potential theories of harm as consideration is given to the question of whether to enter into a full phase investigation. The tight timeline of an initial phase merger investigation often requires economists to employ relatively basic models.

If an investigation proceeds to a full phase investigation, the economic analysis often becomes significantly more sophisticated. This can include estimating economic parameters for use in basic modes of analysis such as upward pricing metrics or building empirical oligopoly models of competition for merger simulation. Another common type of analysis exploits important market events, such as entry and exit, to estimate the impact of changes in the number of independent competitors. Economists also review decision-making tools used by market participants in the ordinary course of business for key insights they may reveal about competition in the market. In evaluating arguments advanced by private parties during the investigation or in litigation, economists may employ an array of quantitative analyses, ranging from simple comparisons of key statistics to regression analyses, in order to confirm or reject their arguments or the assumptions underlying those arguments.

Agency economists sometimes serve as testifying experts when a merger is challenged in court, although it is also common for the agencies to hire outside economists to serve in this role. The selection of a testifying economist is based on many factors including the industry knowledge of the economists, the familiarity with the economics literature most relevant to the theories of harm, and resource constraints. Even when an outside economist serves as an agency's testifying expert, staff economists often provide litigation support to the expert, assisting with data analysis and evaluating new evidence provided by the merging parties during the investigation.

*BIAC**

To ensure effective merger enforcement, it is generally recognized that it is not a question of whether competition authorities should utilize economic analysis but how economic analysis is used. Including modern economic principles into competition agency analysis and decision-making that are well recognized and empirically tested can result in better decision-making. But there is also the potential for economic analysis itself to be misused in developing an erroneous theory of harm. A challenge for agencies in ensuring effective enforcement is to adapt analytic techniques that accurately distinguish anti- from pro-competitive practices into administrable rules. Those rules also have to be stable and predictable to allow business to effectively rely on them.

In its previous comments, Business at OECD has stressed the importance of competition and merger control that relies on well-established economic initiatives and analytical tools. This is important to consumers and the business community alike as it promotes predictability and legal certainty in merger review thereby reducing the risk of both type 1 (false positives) and type 2 (false negatives) errors. This is not to suggest that analytical tools and economic analysis in merger control should not be modified or tailored to specific circumstances. Economically sound and targeted analysis can assist competition authorities to avoid both under and over intervention and produce outcomes that best serve the whole community.

Notably, Business at OECD has previously highlighted an inherent tension between a form-based and effects-based approach to merger review and suggested general principles to retain the benefits of predictability and legal certainty while still ensuring effective competition enforcement:

- [A]void techniques that increase the prospect of type I and type II errors and add to the degree of uncertainty for merging firms regarding merger enforcement;
- [C]onsider evidence “in the round” and do not rely on specific indicators (such as diversion ratios and margins) that are subject to measurement error;
- [W]hen determining safe harbor thresholds, guard against introducing an unnecessarily interventionist standard for merger screening and avoid capturing mergers very unlikely to result in anti-competitive effects; and
- [B]e open to credible evidence pertaining to a range of factors including pro-competitive efficiencies.

While these general principles apply across the range of economic measurement techniques in merger control assessments, Business at OECD has also commented in the past on the specific benefits and costs associated with various economic techniques, such as the Upward Pricing Pressure test (UPP). Those tests are discussed in more detail in this submission, along with a preview of other economic techniques with comments on their best use.

* Business at OECD lead drafters: Hugh Hollman, Chief Antitrust Counsel, Saudi Aramco; and Cecil Chung, Senior Foreign Counsel, Yulchon.