

Essays on Economic Analysis of Competition Law: Theory and Practice

[Abstract]

*The Antitrust Treatment of Loyalty Discounts and Rebates
in the EU Competition Law: in Search of an Economic
Approach and a Theory of Consumer Harm*

*The Effectiveness of Competition Policy: An Econometric
Assessment in Developed and Developing Countries*

*Cartel Detection and Collusion Screening: An Empirical
Analysis of the London Metal Exchange*

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The Antitrust Treatment of Loyalty Discounts and Rebates in the EU Competition Law: in Search of an Economic Approach and a Theory of Consumer Harm *

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Abstract

In the paper, the fundamental question is under what conditions loyalty discounts and rebates adopted by a dominant firm cause anti-competitive effects. Fidelity schemes, although extremely frequent in the market, if applied by a dominant firm, are likely to be judged as illegal per se, as demonstrated by the EU case-law delivered so far and the severe scrutiny reserved by the national competition authorities. As a result, the paper first provides an analytical overview of loyalty structures, focusing in particular on retroactive rebates, and elaborates on important economic implications, such as the lock-in and the suction effect. The work then discusses the novelties introduced by the Guidance Paper on the Application of Art. 102 of the TFEU, which calls for an effects-based analysis of exclusionary abuses. Therefore, after an in-depth evaluation of the as-efficient competitor test, the new approach of the European Commission towards loyalty discounts and rebates is discussed in details with reference to a controversial antitrust case recently examined at EU level (*Tomra*). The paper finally proposes a systematic economic framework for analysing the effects, and therefore the legality, of fidelity schemes, in the light of a consistent theory of consumer harm.

Keywords: Fidelity Discounts, Loyalty Rebates, Abuse of Dominant Position, As-Efficient Competitor Test, Consumer Harm, Exclusive Dealing, Foreclosure, Monopolization, Non-linear Pricing, Predation, *Tomra*.

JEL Classification: K21; L12; L42

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The Effectiveness of Competition Policy: An Econometric Assessment in Developed and Developing Countries *

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Abstract

The ultimate objective of the present paper is to empirically investigate the effectiveness of competition policy in developed and developing countries. Although its importance is continuously increasing, the effectiveness of competition policy still seems to lack the attention that it would deserve. At the present state of art, the number of academic contributions that attempts to estimate its impact on relevant economic variables appears very limited, in particular for the less developed countries. However, an empirical literature aimed at measuring in objective terms the effect of competition policy on economic growth is emerging, starting from narrow variables of interest, such as Gross Domestic Product and Total Factor Productivity. As a result, the principal aim of the current work is to contribute to this branch of research, focusing on broader indicators of market performance, in order to understand whether the presence of an antitrust authority has a significant impact, thus an effective utility, on the level of competition of a country.

Keywords: Competition Authorities, Competition Policy, Developed Countries, Developing Countries, Economic Development, Economic Growth, Law & Economics, Market Concentration, Market Efficiency, Market Performance, New Institutional Economics, Political Economy.

JEL Classification: C21; C26; K21; L40

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Cartel Detection and Collusion Screening: An Empirical Analysis of the London Metal Exchange *

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Abstract

In order to fight collusive behaviors, the best scenario for competition authorities would be the possibility to analyze detailed information on firms’ costs and prices, being the price-cost margin a robust indicator of market power. However, information on firms’ costs is rarely available. In this context, a fascinating technique to detect data manipulation and rigged prices is offered by an odd phenomenon called Benford’s Law, otherwise known as First-Digit Law, which has been successfully employed to discover the “Libor Scandal” much time before the opening of the cartel settlement procedure. Thus, the main objective of the present paper is to apply a such useful instrument to track the price of the aluminium traded on the London Metal Exchange, following the allegations according to which there would be an aluminium cartel behind. As a result, quick tests such as Benford’s Law can only be helpful to inspect markets where price patterns show signs of collusion. Given the budget constraints to which antitrust watchdogs are commonly subject to, a such price screen could be set up, just exploiting the data available, as warning system to identify cases that require further investigations.

Keywords: Benford’s Law, Cartel Detection, Collusion Screening, Competition Authorities, Data Manipulation, Monopolization, Oligopolistic Markets, Price Fixing, Variance Screen.

JEL Classification: C10; D40; L13; L41

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