Analyzing Competitive Effects

Introduction

Martin Mandorff*

Swedish Competition Authority

* The views expressed are those of the author and not of the Swedish Competition Authority
Competitive Effects of Vertical Agreements

The fundamental difference between horizontal and vertical agreements:

- **Horizontal control** = combination of substitutes; you want the other party to worsen product-offering (e.g. to raise price)
- **Vertical control** = combination of complements; you want the other party to improve product-offering (e.g. to lower price)
Pro-Competitive Effects of Exclusive Dealing

Seller must solve an externality problem in order to help Buyer *improve* offer to final customer:

- How to make sure Buyer doesn't use “improvement” when marketing competing sellers’ products?
- Possible solution: Exclusivity see *Marvel* (JLE 1982), *Segal & Whinston* (RAND 2000)
- Example: The agency-model, e.g. for launching new products
Anti-Competitive Effects of Exclusive Dealing

But exclusivity can also give rise to “horizontal effect” - by reducing competitive pressure from other Sellers

- Coherent Theory of Harm:
  ✓ Do agreements have the ability to exclude (reduce competitive pressure)?
  ✓ Do parties have incentives to exclude (profitability)?
  See e.g. Rasmussen, Ramseyer & Wiley (AER 1991)

- Weighing pros & cons: Effects-based analysis (rule of reason)
Distinguishing Anti-Competitive from Pro-Competitive Behavior

• Risk of errors in assessment:
  - Type I-error: prohibiting pro-competitive conduct
  - Type II-error: allowing anti-competitive conduct

• Direct balancing of consumer welfare often difficult

• Additional economic tests can aid in the assessment:
  - As-Efficient Competitor (AEC) test: Does the conduct exclude an AEC?
  - No Economic Sense (NES) test: Does the conduct make no (or little) sense but for reducing competitive pressure?

• See Unilateral Conduct Workbook Chapter 1: The Objectives and Principles of Unilateral Conduct (ICN 2012)