International
Competition
Network

Analyzing Competitive Effects

Introduction

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* The views expressed are those of the author and not of the Swedish Competition Authority

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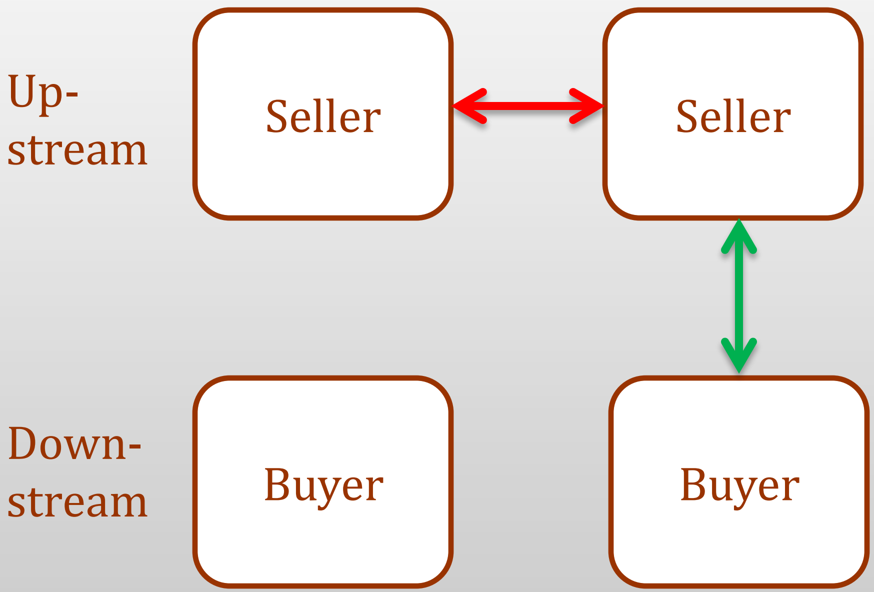
Competitive Effects of Vertical Agreements

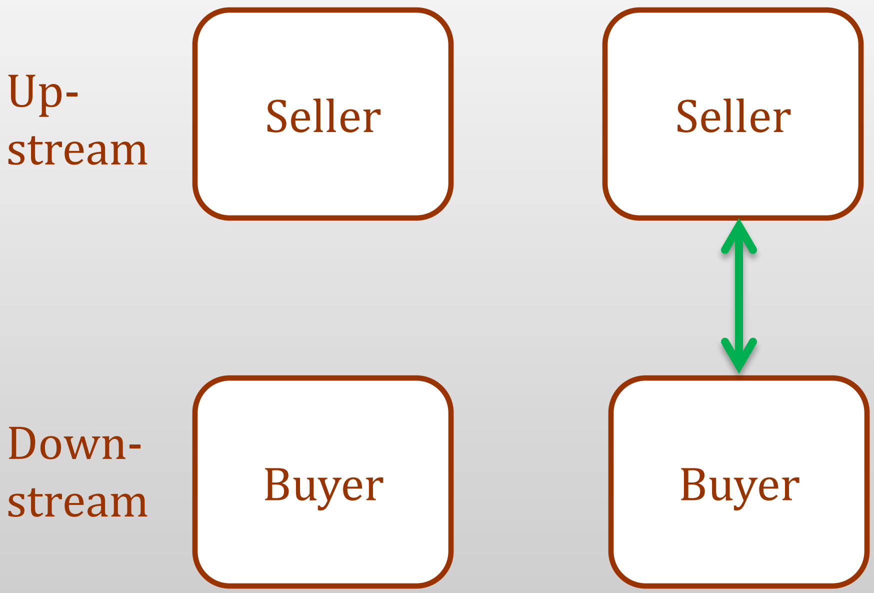
The fundamental difference between horizontal and vertical agreements:



- 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

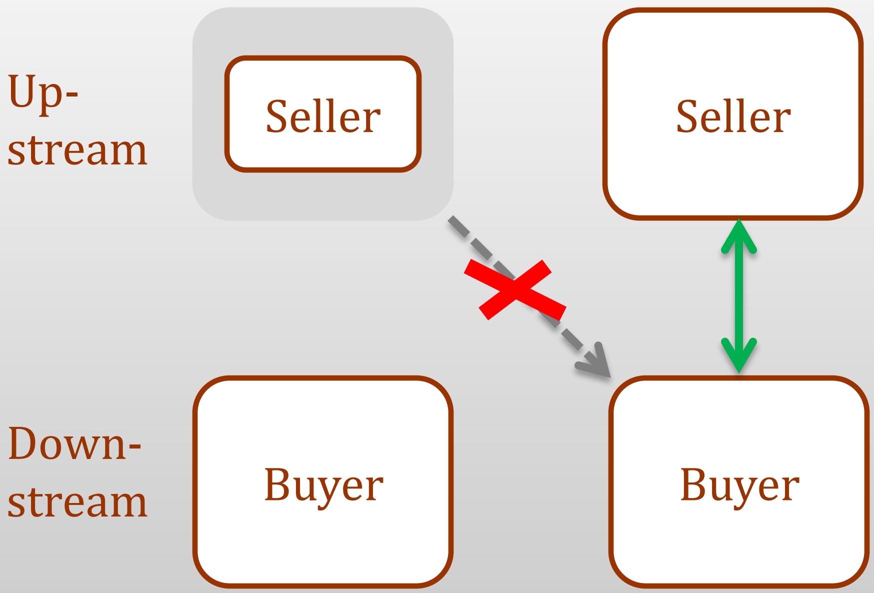
Seller must solve an externality problem in order to help Buyer *improve* offer to final customer:



- 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

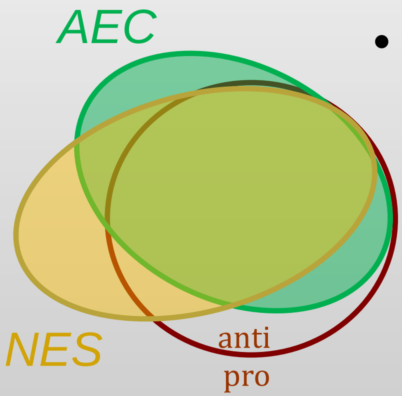
Anti-Competitive Effects of Exclusive Dealing

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)