ICN Unilateral Conduct Regional Workshop

Assessment of Dominance

Jiyoung Bae
I. The concept of dominance or substantial market power

II. Defining the relevant market
   - Demand-side substitution and supply-side substitution
   - Relevant product and geographic market

III. Assessing dominance in the relevant market
   - Market shares
   - Barriers to expansion and entry
   - Buyer power
The concept of dominance/substantial market power

- What is the meaning of dominance or substantial market power? (See ICN’s *Unilateral conduct workbook chapter 3: assessment of dominance*, paras 5-6.)
  - Market power: The ability to price profitably above the competitive level
  - Substantial market power
    - high degree of market power both with respect to the level to which price can be profitably raised and to the duration that price can be maintained at such a level (*Substantial and durable*)
    - a firm’s ability to behave with appreciable freedom from competitive discipline imposed by rivals
- Evidences to find dominance
  - direct evidence: pricing and profitability
  - indirect evidence: market shares, entry conditions and other market factors all affect a firm’s ability to exercise market power
Defining the relevant market

- A starting point for the assessment of dominance

  - **Demand-side substitution**: economic substitutability from the point of view of the customers

    - ‘SSNIP’ test: *a small but significant and non-transitory increase in price*

    - ‘Cellophane fallacy’: if the alleged dominant firm already sells its product at the monopoly price, the fact that a further price increase might not be profitable does not indicate that demand-side substitution is constraining prices at a competitive level

  - **Supply-side substitution**: the ability of suppliers to use existing capacity to begin producing the allegedly dominant firm’s product
Defining the relevant market

- Relevant product market
  - evidence on characteristics and usage of the products
  - patterns in price changes of the product

- Relevant geographic market
  - transportation costs in relation to the value of the product
  - whether national or regional regulatory or licensing authorizations are necessary
Assessing dominance in the relevant market

- Does a firm have a market power?
  - Market shares, barriers to expansion and entry, and buyer power
- Market Share
  - Interpreting market shares
    - A very high market share may indicate dominance, however...
  - Calculating market shares in the relevant market
    - Production and sales volumes by monetary unit or by physical units
    - Reserves or production capacity (i.e. in the mining industry)
Assessing dominance in the relevant market

• Barriers to expansion and entry
  – Where barriers to expansion or entry are low, the fact that one firm has a very high market share may not be indicative of significant market power.

• Factors that can give rise to barriers to expansion and entry
  – structural barriers: sunk costs, economies of scale and scope, and scarce inputs, and from demand factors such as a firm’s reputation
  – strategic barriers: investment in excess capacity or supply and distribution contracts
  – regulatory barriers: intellectual property rights, administrative regulations
Assessing dominance in the relevant market

• Buyer power: the ability of buyer to influence the terms and conditions on which it purchases goods

• Factors to be considered in assessing buyer power
  – To threaten to resort to alternative sources of supply
  – switching cost
  – the buyer’s significance to the seller
  – the expertise and special know-how of the buyer
  – buying habits and procedures
  – market-specific aspects(such as the presence of network effects)
Concluding Remark

- **Market definition** is important, but it is not an end in itself and is simply one stage in the overall process.
- **Market share** can be a reliable indicator of market power, but they cannot be determinative.
- **Barriers to expansion and entry** provide us with information about the existence of potential competition.
- **Buyer power** is also an important part of the analysis of market power.