



E.CA Competition Law and Economics Expert Forum

Brussels

May 31, 2017

Market definition in the digital era

A focus on two sided markets

What's different about two sided markets?

- Two (or more) kinds of customers/complementors
- Need to “bring both sides on board”
 - Balance matters, as well as total volume
 - Perhaps network effects
- Prices to each side set in light of effects on other side(s)
 - E.g. credit card system attracts cardholders partly so as to improve its negotiating position with merchants, and vice versa
- Is *everything* two-sided?
 - Doesn't a baker need to “balance” deliveries of flour and inflow of hungry customers? So are bakeries a two-sided market?
 - ◆ (If a bakery has short-run market power on both sides?)
 - Rochet and Tirole: balance (pattern) of prices, as well total price (retained margin), matters. But that seems true here...
 - Would be alarming question if one were to concede what is sometimes suggested: two-sided markets are special and are too complicated for good antitrust enforcement

The economic perspective

- If you ask about competitive effects in A, and you can't understand competition in A without discussing complement/"other side" B,

The economic perspective

- If you ask about competitive effects in A, and you can't understand competition in A without discussing complement/"other side" B,
 - Well, you discuss B*

The economic perspective

- If you ask about competitive effects in A, and you can't understand competition in A without discussing complement/"other side" B,
 - Well, you discuss B*
 - That wasn't so hard, was it?
- But do you need to do so, really?

The economic perspective

- If you ask about competitive effects in A, and you can't understand competition in A without discussing complement/"other side" B,
 - Well, you discuss B*
 - That wasn't so hard, was it?
- But do you need to do so, really?
 - Not every aspect of the competitive environment needs to be explicitly analyzed!
 - For merger analysis, *focus on the change* in incentives
 - ◆ That's very much the spirit of UPP: what shifts due to merger?
 - ◆ Complex incentives, e.g. business-building, complements, etc., needn't be explicitly analyzed *if their effect doesn't much change*

The economic perspective

- If you ask about competitive effects in A, and you can't understand competition in A without discussing complement/"other side" B,
 - Well, you discuss B*
 - That wasn't so hard, was it?
- But do you need to do so, really?
 - Not every aspect of the competitive environment needs to be explicitly analyzed!
 - For merger analysis, *focus on the change* in incentives
 - ◆ That's very much the spirit of UPP: what shifts due to merger?
 - ◆ Complex incentives, e.g. business-building, complements, etc., needn't be explicitly analyzed *if their effect doesn't much change*
- Modify answer above: if you need to discuss B to *understand the relevant question...* e.g. for a merger, the *change in incentives*

Sometimes truly need to consider both sides together

- In video content distribution, an increase in a distributor's market power might well be expressed partly as higher prices to viewers and partly as lower prices to content providers
 - The wedge pushes both parts
- Would need to take this into account in evaluating argument that the lower prices to content providers would be passed through as an efficiency
- Perhaps most helpful to define the market as intermediation, and the price accordingly (Emch and Thompson 2006), though recognizing that the price pattern matters too

What does this tell us about market definition?

- Much more widely, there can be a tension between two goals:
 - Market definition focuses on substitutes
 - ◆ US Horizontal Merger Guidelines; EC Notice on Market Definition
 - Market definition encompasses what you need to discuss in order to understand firms' competitive behavior and pricing

What does this tell us about market definition?

- Much more widely, there can be a tension between two goals:
 - Market definition focuses on substitutes
 - ◆ US Horizontal Merger Guidelines; EC Notice on Market Definition
 - Market definition encompasses what you need to discuss in order to understand firms' competitive behavior and pricing
- Whichever choice is made, be aware of it and its consequences
 - E.g. if include “the other side,” market shares may no longer have the same interpretation
 - If exclude “the other side,” nevertheless consider possible countervailing price changes or efficiencies there

What does this tell us about market definition?

- Not just two-sided markets
 - Significant complements raise this issue too
 - ◆ Reflected in technical issue with hypothetical monopolist (SSNIP) test
 - Airline city-pair markets: relevance of connecting routes
 - FTC case of Westcliff in medical diagnostics: lucrative follow-on business
 - US Horizontal Merger Guidelines, footnote 4

Conclusion

- It's sometimes easier to understand the competitive issues than to express it in a precise market definition
- Factors other than substitution can be important in (pricing) incentives
- Putting important substitutes into market definition is not generally the same as putting all important constraints/factors in
- Market definition is meant to help, not to take over and be an end in itself