

Prevention: Some game theory considerations

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Economics permeates Competition law

- Two areas in Competition law:
 - Collusion
 - Abuse of dominant position
- In both areas, law is economics based
 - Could the observed behaviour be *interpreted* as attempts to collude, or attempts to abuse position
 - What is the (sometimes unobserved) effect of the observed behaviour
 - Most markets have a few important firms, and they can behave strategically
 - Game theory is important
- Economists work hand in hand with lawyers

Abuse of dominant position – some economic issues

- What is the relevant market?
- Is there a dominant firm in that market (shares)?
- Can the behaviour of the dominant firm *be interpreted* as obstructing the competitive process (not individual competitors)?
 - Predatory pricing
 - Entry deterrence
 - Unnecessary bundling (foreclosure)
 - Refusal to supply
- What are the (unobserved) consequences?

Collusion– some economic issues

- Collusion: Attempt to prevent competition
 - Price agreements
 - Division of territory / quantity
- How does coordination come about?
 - Tacit or explicit agreement?
- How is agreement maintained?
 - Individual incentive to deviate
 - Tit-for-tat strategies
- Markets characteristics where collusion is more likely:
 - Homogeneous products (not present in personal hygiene market)
 - Few, symmetric firms (equal incentives)
 - Easy to monitor each other actions (or secret negotiations with retailers?)
 - In growing markets with frequent interaction
- Firms also talk to each other for good reasons (e.g. how to promote bicycles)

No clear boundaries

- Firms would like to know what is, is not allowed
- Economics based approach often adopts “rule of reason” with role for interpretation
 - Few black / white issues
 - Often, different tones of grey
- From a prevention perspective, this is not desirable
 - To avoid ex-post errors of first and second type (false accusations, or no punishment where behaviour was anti-competitive) rule of reason and argumentation may be desirable.