

What can merger retrospectives tell us? An assessment of European mergers

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KEYWORDS: mergers, merger retrospectives, ex-post evaluation

BACKGROUND

- Merger control is an ex-ante policy instrument - i.e. the antitrust agency has to assess the market effect of a transaction *before* the transaction takes place. In this respect, even if a merger decision is based on the best available evidence, there is inevitable uncertainty in the appropriateness of any intervention that follows. Because of this, it is crucial that merger control decisions are subjected to rigorous ex-post evaluation exercises in order to assess how well they are achieving their task of filtering out anti-competitive mergers.
- Ex-post merger evaluations (or merger retrospectives) estimate the impact (typically on price) of mergers by using different econometric techniques. The objective of this paper is to review the relevant literature of these merger retrospectives, to discuss what the findings of these studies may imply about the quality of merger decisions, and to provide a framework for identifying errors in merger decisions.
- The paper is a continuation of the line of works, championed by John Kwoka, that review retrospective studies estimating the price-effect of mergers. It is partially based on a report the authors prepared for DG COMP; European Commission, *A review of merger decisions in the EU: What can we learn from ex-post evaluations?* (October 2015). The opinions expressed here are those of the authors and not necessarily those of the European Commission.

METHODOLOGY

- The paper is a systematic review of all retrospective studies on European mergers. We report average price-effects of mergers broken down by various merger and enforcement characteristics.

KEY FINDINGS

- We find that on average remedied mergers were not followed by a price increase. This suggests that European merger control interventions seem effective at eliminating problems.
- Exploring the relative richness of data from European merger decisions, we look at heterogeneity across the estimates, and find that more concentrated markets are more likely to lead to higher post-merger price increases.
- A strikingly large proportion of studies look at the merger's price effect within a year of the merger, which is likely to be inadequate for picking up dynamic effects and potential market self-corrections, which typically take longer to unfold.
- Finally, we evaluate the merger decision in the light of the price-change estimates. In around half of the cases the retrospective estimate and the decision together suggest that the agency's decision was potentially erroneous. When further investigating these cases, we point out that only a small number of those are likely to represent a genuine error in the decision, and others are possibly a result of other factors (non-price effects were given priority over price effects, faulty evidence, or random error).

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POLICY ISSUES

- In our sample, the competition authorities did well in designing interventions that eliminate post-merger price increases.
- Market concentration seems to be a good first filter to screen notified mergers.
- When estimating the price-effect of mergers, one should look at effects beyond the first post-merger year.
- We strongly argue that we would need many more retrospective studies in order to be able to identify not only errors in particular decisions but errors that are more systematic in merger control.
- Although the paper only looks at the price-effect of mergers, it would be equally important to systematically review what we know about non-price effects.

SUGGESTED CITATION

Mariuzzo, F., Ormosi, P., and Havell, R. (2016) What can merger retrospectives tell us? An assessment of European mergers, CCP Working Paper 16-4. Available at: <http://competitionpolicy.ac.uk/publications/working-papers>.

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