

Cartel enforcement and deterrence over the life of a Competition Authority

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BACKGROUND

- Over recent years, competition authorities (CAs) and academic researchers have become increasingly interested in the evaluation of competition policy. Inevitably, evaluations are based on counts of activities: the number of cartels or abuses detected and prohibited, and the number of anti-competitive mergers remedied or prohibited over a period of time.
- However, competition policy entails more than just enforcement; it also involves deterrence. This raises obvious doubts about evaluation methods which are based solely on counts of cases convicted. For example, suppose that a CA in a given country records a relatively small number of detected cases. Is this evidence that it is 'weak' both in enforcement and in deterring, or 'strong' because it so effectively deters many potential cartels, leaving few to detect?
- Ideally, an evaluation of policy should aim to measure success in deterrence, as well as purely counting enforcement. But, of course, this is intensely difficult because it requires measuring how the law has impacted on intentions, which have not been materialised into actions.
- This paper searches for evidence that, as a CA builds up experience in cartel enforcement, this feeds back into the business community to deter future cartel formation.

METHODOLOGY

- We present two simple models, focusing respectively on composition and frequency deterrence, which describe how the feedback would work. The ideal outcome is that, over the long-run, the number of cartels detected by a successful CA will follow an inverted U-shaped time path: its propensity to detect increases, but the number of cartels that exist (and, as such, are liable to be detected) decreases.
- Empirically, we try to simulate the long-term dimension by using an international panel of CAs. Although comparable data are only available for a relatively short time period (2006-2014), we hope that longer-run effects are captured by including within the panel CAs that are at very different stages in their life cycles.

KEY FINDINGS

- We find evidence of the predicted inverse U-shape, and interpret this as consistent with an increasingly strong feedback from enforcement to deterrence as the CA evolves over the years.

POLICY ISSUES

- Deterrence is a major component of competition policy, and this should always be factored into assessing the performance of a Competition Agency.

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