Future Directions, Institutional Reform and Insights from Behavioural Economics

In this edition of the newsletter, we focus on two research themes being pursued by members of the CCP. Two papers discuss the new Government's reform agenda, looking at the role of the energy regulator and the use of market mechanisms in the provision of health services. We then look at the important insights behavioural economics may have for our understanding of consumers and markets.

Bruce Lyons – **'Liberating the NHS': Some Pitfalls in Introducing Healthcare Competition**

One of the reforms announced by the new UK coalition government was a major overhaul of the NHS. A key idea is that competition can be used to promote better health outcomes and reduce costs. However, health competition is different to other markets. It will need a very carefully designed competition policy if it is to stand a chance of working.

Michael Harker & Catherine Waddams – **Reform of the energy regulator: an agenda for change**

In this article we argue that the Government's and Ofgem's relationship should be such that political decisions should rest with Ministers. The regulator's statutory duties should be simplified to contain a clear statement of regulatory objectives. The enforcement of competition law should be a matter for the OFT and not the regulator.

Robert Sugden – **Why Consumer Sovereignty matters – even if we don't have coherent preferences**

The principle of consumer sovereignty is under challenge from leading behavioural economists, who argue that consumer sovereignty is an incoherent concept when (as is often the case) consumers lack consistent preferences. I argue that a person can value opportunities to get what she wants even if her preferences are inconsistent.

Pinar Akman – **When are Excessive Prices Unfair?**

EU competition law prohibits a dominant firm from charging *unfair* prices. We develop a procedure that defines a price as unfair in terms of the 'principle of dual entitlement' and show that this procedure can help to effectively resolve one of a number of problems regarding the prohibition.

Consumers in Antitrust Policy

CCP 7th annual conference

16-17th June 2011

Consumers have traditionally been seen as the main beneficiaries of antitrust policy, and they are being increasingly identified as important active participants, whose role is determined not just by traditional economic self interest but by 'behavioural' factors. This conference explores theory and evidence on how consumers behave in markets, how firms respond, and the implications for antitrust policy. Contributions will be from the various disciplines found within the centre and a mixture of theoretical and empirical approaches with an emphasis on natural experiments and sector studies.

More information on this event will be on our website, www.uea.ac.uk/ccp early next year. Alternatively contact Leanne Denmark, Communications Coordinator on +44 (0) 1603 591616 or l.denmark@uea.ac.uk

An ESRC Research Centre
CCP CENTRE FOR COMPETITION POLICY
Newsletter

Issue Number 20
November 2010

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'Liberating the NHS': Some Pitfalls in Introducing Healthcare Competition

Bruce Lyons, Professor of Economics

One of the first reforms announced by the new UK coalition government was a major overhaul of the NHS. In July, it issued a White Paper and supporting consultation documents ('Liberating the NHS'). The timetable for introducing the proposed reforms is very tight. A Health Bill will be introduced to parliament this autumn and the majority of the new system is planned to be implemented by April 2012. Beyond improving health outcomes and reducing inequalities across England (the devolved administrations are responsible for Scotland, Wales and Northern Ireland) the aim is to reduce NHS management costs by 'over 45%' by the end of 2014. This is ambitious stuff and if it is to stand a chance of working it will require an effective and very carefully designed competition policy.

A key idea behind the proposed reforms in Liberating the NHS is that competition can be used constructively to promote better health outcomes and reduce the costs of bureaucracy. Patients are to be given more freedom to choose their GP and more information to allow them to choose secondary care. Funding will follow those choices, so GPs and secondary providers have the incentive to provide better services to attract patients. This 'bottom up' competitive process is intended to replace 'top down' targets as the means of improving quality.

There is now good evidence that an appropriately incentivised and well regulated competitive system can indeed be a powerful force for saving lives and improving health outcomes. There is also evidence that an inappropriately incentivised and poorly regulated system can do the reverse. All markets benefit from a degree of regulation ranging from background competition law (e.g. prohibiting cartels, exclusionary behaviour by dominant firms and anticompetitive mergers). Some other markets (e.g. monopoly utilities like water) require more direct intervention (e.g. on price setting).

Markets within the NHS framework will always need more regulation than background competition law if they are to be effective and beneficial. This is because the role of the customer in health markets is very different to, say, retail or intermediate business markets. In 'normal' markets, the same person (i.e. the customer) does three things: chooses which product to buy from which provider; pays for the product out of their own budget; and 'consumes' the product (i.e. enjoys the benefits either directly as a consumer or indirectly as a firm from the profits it makes from onward sales). In this way, incentives for balancing cost and quality are fully aligned so customer choices between competitive providers drive the market to provide the right quality of product at the minimum appropriate price.[1] In a health market, however, the chooser may be a clinician, the payer is the NHS and the consumer is the patient. This separation in the constituents of choice is fundamentally why it is so difficult to design an effectively competitive NHS system.

The consultation expects patient choice to drive competition. In making their choices, they will be aided by a 'revolution' in the amount of information they are provided (e.g. quality indicators). The particular design proposed in Liberating the NHS also places GPs in a pivotal position in commissioning the services that will provide local choice for patients and in facilitating competition. There is insufficient recognition of the problems this will create. There are two levels of patient choice: first they choose a GP; second, if they have a problem requiring further diagnosis or treatment, they choose a provider of secondary care (e.g. hospital). On the first choice (between GPs) the evidence from behavioural economics suggests people may choose on the basis of immediate and easily understood indicators (e.g. location, waiting times, ease of making an appointment) and pay correspondingly little attention to other objectively important indicators that are less immediate or more difficult to understand (e.g. clinical indicators). Once chosen, few patients are likely to change GP except following a particularly bad experience or change of residence. On the subsequent choice between secondary healthcare providers, most patients will look to their GP for advice, particularly on clinical quality. He or she is the clinical expert on their problem and patients will expect that they have the best knowledge of alternative providers. This influence may lead to conflicts of interest which have the potential substantially to undermine the benefits envisaged in the reforms (e.g. where GPs have a role in both commissioning services and an ownership interest in a secondary provider).

Nevertheless, this should not be taken as a message of despair – only that *it is of the utmost importance to get the detailed regulation right so that competition drives health outcomes in the right direction*.[2]

[1] This alignment can be undermined when competition is imperfect.

[2] The author is submitting a detailed commentary on what regulation is needed.

Reform of the energy regulator: an agenda for change

Michael Harker, Senior Lecturer in Law and Catherine Waddams, Professor in Norwich Business School

Introduction

In July this year, the Department of Energy and Climate Change (DECC) announced a review of the energy regulator, Ofgem.[1,2] In the introduction to the consultation document, DECC noted that the system of regulation at privatisation had the relatively limited aims of minimising energy prices for consumers, promoting efficiency and encouraging innovation and investment on the part of firms. These aims have, over time, been significantly augmented to include broader social and environmental goals, including targets such as the eradication of fuel poverty and contributing to the achievement of the UK's international climate change targets. The result is a complex set of, often conflicting, objectives, rendering decision-making for the regulators more complex and raising critical questions of accountability and legitimacy. The terms of reference for the review focus on the relationship between the regulator, the Government and the Office of Fair Trading (OFT), the regulator's statutory duties, and the use of social and environmental guidance.[3]

Here we present what we believe to be the best way forward for the reform of the regulator, reflecting our research in this area.

Regulatory objectives and trade-offs: the relationship between the government and the regulator

The original vision for economic regulation was intellectually robust and offered a practical short term solution to the problem of controlling monopoly power held by newly privatised companies. In economic terms, competition was expected to develop so that regulation would be needed only on a temporary basis (though the long term need to regulate the network parts of the businesses was never in doubt). The industries had been privatised partly to release them from short term government objectives and interference, and so the independence of regulators (from government) was an important dimension of the new arrangements. The strengthening of general competition law in the early 2000s was another way to curb economic power of the incumbents.

The forces which had led governments to intervene in the nationalised industries remained, even if the route for such intervention had changed. Governments addressed this by making legislative arrangements for and issuing environmental and social guidance. Governments appointed regulators (and approved but did not generate their budgets) and inevitably they were tempted to influence them, particularly under pressure from interest groups and the media who sought their own particular solutions for environmental and social issues. The result was frequent amendment of legislation and social and environmental guidance which trod a difficult line between generality and specificity.

One of the key challenges for the government is to devise a system within which the various different policy objectives can be reconciled. There will often be difficult trade-offs to be made. The most obvious is protection of the interests of low-income consumers and the need for sustainable and secure energy supplies; both of the latter put upward pressure on energy prices, challenging the achievement of affordability.[4] How and by whom are these complex trade-offs to be made? The previous Government legislated to give ministers the power to issue statutory guidance to the regulator on social and environmental issues. This provision was designed to ensure that government had an input into regulatory decision-making, while preserving the independence and specialist contribution of the regulator and the transparency of the system as a whole. The guidance has been changed twice since its initial introduction in 2002, first in 2004 and then in 2010, and the current social and environmental guidance provides a mixture of aspiration, objectives, methods and targets. It is important that the guidance makes a clear distinction between objectives, instruments and targets. The government should set the broad policy framework and substantive goals to be achieved, identifying the instruments which the regulator has at its disposal. Given the specialised knowledge and expertise of the regulator, policy objectives are more likely to be secured if the regulator is left with detailed implementation, i.e., the task of choosing as between different instruments. The setting of clear and achievable targets will ensure that the regulator is held sufficiently to account.

The relationship between the OFT and Ofgem: strengthening external scrutiny

The strengthening of general competition law in the early 2000s provided an additional instrument to curb the economic power of the incumbents. Currently the regulator enjoys concurrent powers with the OFT to enforce the general competition law and to make market investigation references to the Competition Commission.[5] These powers were seen as particularly important given the gradual lifting of price controls in respect of domestic supply markets in the period 1997-2002.[6]

The concurrent jurisdiction of the regulator and the OFT offers several advantages. First, the regulator has specialised expertise in relation to the sector which is not contained within a generalist competition authority such as the OFT. Second, the regulator has a more extensive "tool kit" with sectoral duties complementing competition enforcement powers.

Some have argued that the regulator has been reticent to use its competition powers.[7] If this is the case then are the competition rules serving their core purpose as a credible deterrent against anticompetitive behaviour on the part of firms? The application of the competition powers provides, potentially, an important backstop against regulatory inaction or failure. To avoid this problem, the OFT should have exclusive responsibility for the enforcement of the competition law. Any comparative advantage that the regulator enjoys by reason of its superior expertise can be harnessed by the OFT by liaising closely with the regulator in the course of its investigations. Decisions on market investigation references should also rest with the OFT, otherwise it is very difficult for the regulator to credibly claim that it can scrutinise the success of the policies it has been responsible for devising, implementing and indeed championing itself.

The statutory duties: fit for purpose?

The regulator generally exercises its powers against the backdrop of statutory duties, which disclose a hierarchy of interests. Under the original legislation, these duties were relatively straightforward – the regulator was required to ensure reasonable demand was met, that firms were in a position to finance their activities, as well as promoting efficiency. There were a number of secondary duties, including protection of the interests of consumers 'in respect of prices charged'[8] and the need to protect the interests of consumers of pensionable age, in rural areas and who were chronically sick or disabled. The Utilities Act 2000 introduced a "principal duty" – another level in the hierarchy – to promote the interests of consumers, wherever appropriate through the promotion of effective competition. It further required that the regulator took into account the interests of low-income consumers. A further significant change to the duties came with the Energy Act 2010 which appears to downgrade the importance of competition by making explicit that it is not necessarily the presumptive means of promoting the consumer interest, while further clarifying the interests of consumers to include the achievement of environmental targets and security of supply.[9]

The duties of the regulator are, in their current form, complex and confusing and given their inclusiveness, prone to the charge that they are designed "to mean all things to all men". The statutory duties should be reformulated so that they contain a simple statement of regulatory objectives which endure in the medium to longer-term. Further clarification of these duties can be made through the use of statutory guidance.

Conclusions

This opportunity to review the role of the regulators and their relationship with government is to be welcomed. It occurs in a particular context; the need for extensive investment in infrastructure at a time of financial stringency, and for the regulators to demonstrate that their activities provide good value for money. The challenge for the review is to develop a system whose legitimacy and credibility is accepted by all those with interests in the industry. Its tasks should be based on clear and stable objectives, with an appropriate and transparent delineation of responsibilities between government and the regulator.

[1] DECC, Ofgem Review: Call for Evidence (DECC July 2010) available: http://www.decc.gov.uk/en/content/cms/consultations/ofgem_review/ofgem_review.aspx.

[2] Shortly afterwards the Department for Environment, Food and Rural Affairs announced a similar review of the water regulator. Here we focus on energy, but the format of the review and many of the issues are similar in the two sectors.

[3] The terms of reference included, in addition, the value for money that Ofgem provides, its approach to minimising regulatory burdens and the scope for lessons from other regulatory models.

[4] Waddams Price, Catherine, Equity, Fuel Poverty and Demand (maintaining affordability with sustainability and security of supply) in Jamasb, T. and Pollitt, M., Eds. *Electricity and Heat Demand in a Low-Carbon World: Customers, Citizens and Loads*, Cambridge University Press, forthcoming, 2011.

[5] The OFT has exclusive competence over mergers, however.

[6] For an historical review and assessment of deregulation in domestic energy supply see: Harker, M and Waddams Price, C., Introducing competition and deregulating the British domestic energy markets: a legal and economic discussion, *Journal of Business Law*, 244-268, May 2007.

[7] To date, five cases have been investigated by Ofgem under the Competition Act 1998, none of which resulted in an infringement decision. See the OFT's concurrency register: http://www.oft.gov.uk/about-the-oft/legal-powers/legal/competition-act-1998/Concurrency/Register

[8] For example in the Gas Act, 1986, 4 (2)(a)

[9] For a consolidated list of duties see http://www.ofgem.gov.uk/About%20us/Authority/Pages/TheAuthority.aspx

Why consumer sovereignty matters – even if we don't have coherent preferences

Robert Sugden, Professor in Economics

Economics has a long and robust tradition of opposition to paternalistic restrictions on consumers' choices, an opposition often expressed in terms of the principle of 'consumer sovereignty'. This is not to say that most economists have been doctrinaire libertarians, but only that they have had a professional suspicion of forms of market regulation that purport to protect individuals against themselves. They have pointed to the frequency with which such regulations in fact protect incumbent producer groups against competition, and have opposed attempts to achieve large-scale collective ends by micro-managing consumers' choices rather than using market mechanisms – a current example being the attempt to reduce carbon emissions by such means as regulating the kinds of light bulb that can be sold rather than by imposing a uniform carbon tax. This presumption in favour of consumer sovereignty is now being challenged by an influential group of behavioural economists, whose manifesto is Richard Thaler and Cass Sunstein's popular book *Nudge*.[1]

The argument against consumer sovereignty gains its traction from the role that rational choice theory plays in neoclassical welfare economics. Welfare economics conventionally assumes that each individual has a consistent preference ordering, which is revealed in her decisions; this ordering is interpreted as a standard of welfare for that person. Consumer sovereignty is defended on the grounds that because preferences are indicators of welfare, policy-makers ought to respect them, and that because people choose what they prefer, the best way to respect preferences is to let people choose for themselves. However, the findings of behavioural economics suggest that the preferences that are revealed in actual behaviour are often unstable, context-dependent and inconsistent with standard axioms of rational consistency. In many cases, preferences are formed only in response to specific decision problems, and are sensitive to apparently arbitrary details of 'framing', such as which option is presented as the default. These findings can be seen as fatally undermining the case for consumer sovereignty. Thaler and Sunstein claim that, in the light of the findings of behavioural economics, the anti-paternalist position is 'a literal nonstarter'.[2] What they mean is that it makes no sense to call for preferences to be respected if individuals do not have coherent preferences in the first place.

Some behavioural economists are using this line of thought as the starting point for a reconstruction of welfare economics. Douglas Bernheim and Antonio Rangel's sketch of 'behavioural welfare economics' has gained a lot of attention.[3] Unlike Thaler and Sunstein, who refer delicately to 'choice architects', Bernheim and Rangel are explicit in invoking a 'planner', interpreting conventional welfare economics as 'instruct[ing] the planner to respect the choices an individual would make for himself'. This instruction is said to follow from the view that 'it is better to give a person the thing he would choose for himself rather than something that someone else would choose for him'. They see the findings of behavioural economics as revealing ambiguities in the concept of 'what a person would choose for himself'. If an individual would choose object x over object y under some conditions but y over x in others, when the difference between the two sets of conditions seems irrelevant from the perspective of rational choice theory, then her choices 'fail to provide clear guidance' to the planner. What is required in such cases, therefore, is some criterion that the planner can use 'to officiate between conflicting choice data'.

For an economist with liberal inclinations, this way of thinking has disturbing implications. As an example of where its logic leads, suppose I am buying a new car. I am choosing between a Ford and a Nissan. Suppose that, because of the 'endowment effect', it can be predicted that if I were to buy the Ford, I would quickly find that I had a strong preference for that over the Nissan; but if I were to buy the Nissan, I would equally quickly find that I preferred it to the Ford. After some deliberation, I decide to buy the Nissan. I would expect to be free to go to the Nissan dealer and place my order. But Bernheim and Rangel's argument seems to imply that a 'planner' is entitled to say that my preferences fail to provide clear guidance about what I would choose for myself, and that it is therefore his job to judge which car I should be 'given' – this despite the fact that I *have* chosen the Nissan, and I'm not being given it, I'm *paying* for it.

For some years, I have been working to reconcile a robust conception of consumer sovereignty with behavioural economics.[4] As I see it, the first step is to stop thinking that normative economics is addressed to a 'social planner' whose job it is to maximise the overall good of society, and who therefore needs to decide what is good for each individual. Instead, we should think of government as a mechanism by which individuals collectively achieve what *they* individually want. This immediately changes the rules of engagement for debate about market regulation. For advocates of consumer sovereignty, the task is to show each individual consumer that her own sovereignty in the market is good for her, for reasons that she can endorse.

So the problem posed by behavioural economics is this: if a consumer recognises that her preferences are unstable and context-dependent, can she still want to be free to make her own economic decisions? Can she see her own continuing freedom of choice as good for her, even though the choices she will make may not be capable of being rationalised by any single system of preferences? I maintain that the answer to both questions is 'yes'.

In a sense which I try to explain in my theoretical papers, the underlying tendency of competitive markets is to give each of us what we want and are willing to pay for, when we want it and are willing to pay for it. This property of markets can be described as the privileging of the preferences of the *acting self* – the self as buyer, seller and consumer, rather than the self as the maker of plans or as the source of reflective judgements. Or, more accurately, the market privileges the preferences of acting *selves*. It does not require consistency between the preferences of selves acting at different moments; it responds to the preferences of all acting selves by facilitating voluntary transactions between them.

To value this property of markets, you have to identify with all your acting selves. When thinking about your continuing interests, you have to treat the preferences of each of your acting selves as authoritative with respect to the decisions that it has to make, rather than thinking that their disparate actions ought to be regulated by a single system of preferences. Or, to put it more simply, you have want a future in which you will have as many opportunities as possible to get what you then want. That this obvious idea is so difficult to express in the language of economics is an unfortunate legacy of the role of rational choice theory in our discipline.

[1] Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness*, Yale University Press, 2008.
[2] Nudge, p. 11.
[3] Douglas Bernheim and Antonio Rangel, 'Beyond revealed preference: choice- theoretic foundations for behavioral welfare economics', *Quarterly Journal of Economics* 124 (2007): 51–104.
[4] Robert Sugden, 'The opportunity criterion: consumer sovereignty without the assumption of coherent preferences', *American Economic Review* 94 (2004): 1014–1033; Robert Sugden, The value of opportunities over time when preferences are unstable', *Social Choice and Welfare* 29 (2007): 665–682; Robert Sugden, 'Why incoherent preferences do not justify paternalism', *Constitutional Political Economy* 19 (2008): 226–248.

When Are Excessive Prices Unfair?*

Pinar Akman, Senior Lecturer in Law

According to Article 102 of the Treaty on the Functioning of the European Union (TFEU) an abuse of a dominant position may consist in 'imposing unfair purchase or selling prices'. One way the prohibition can be breached is by charging *excessive* prices that are unfair. The abuse of excessive pricing has remained underdeveloped conceptually and in practice. According to the European Court of Justice (ECJ) in *United Brands*, a price is excessive if 'it has no reasonable relation to the economic value of the product' and this can be determined by a twofold test. It should be shown that (i) the price-cost margin is excessive and (ii) the price imposed 'is either unfair in itself or when compared to competing products' (paras 250-252). The European Commission followed this test in *Scandlines* and highlighted the difficulty that even if it were possible to prove that a price-cost margin is excessive, there is little guidance to determine whether a price is unfair when comparisons are drawn, if it is possible to make such comparisons at all (paras 163, 169 et seq).

In *United Brands* the ECJ stated that economists have developed ways to determine whether a price is unfair and such methods could be used to define a price as abusive (para. 253). One advance in the economics of fairness - the 'principle of dual entitlement' (Kahneman *et al*, 1986a, 1986b) - can be used constructively to aid the interpretation of this area of law where conventional economic theory is unhelpful. This principle states that transactors are 'entitled' to the terms of trade of a reference transaction, and it is 'unfair' if a firm charges a price that - relative to the reference -realises a gain for the firm at the expense of its customers' entitlement. Given that it can explain when and why a price is unfair relative to another, this is a natural candidate to be used to define a price as unfair in the second stage of the *United Brands* test if it is consistent with the aims of an excessive pricing prohibition.

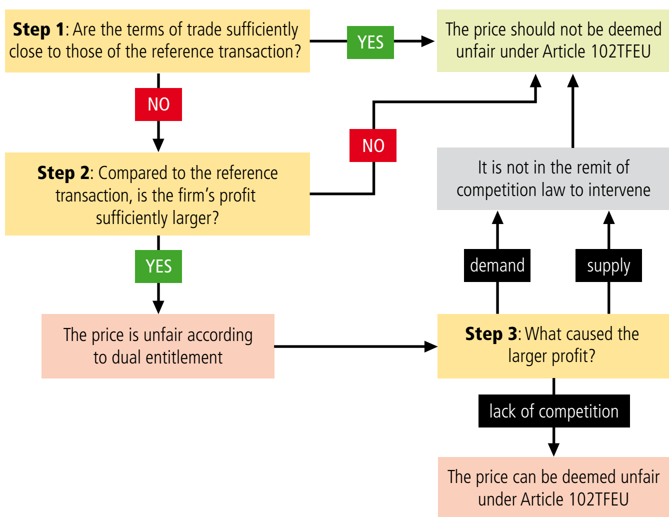
An Effective Test of Excessive Pricing

An effective test of excessive pricing has four qualities. First, there needs to be a clear definition regarding what constitutes an abuse and of any other parameter that determines abuse. Second, a test must be known by firms before they make their pricing decisions, which informs them of which prices will be an infringement of the law. Third, the test must be simple to implement so that if the enforcer can collect the relevant information required on the variables of the test, it can determine whether the price is abusive from this. Finally, the test should improve welfare by preventing and deterring dominant firms from exploiting consumers in the long run with minimal adverse effects on investment and innovation.

The *United Brands* test does not fare well against these criteria. First, it leaves undefined terms such as 'reasonable' and 'economic value', and there is no definition of 'excessive' or 'unfair'. Second, the current law fails to provide any *ex ante* certainty regarding the conditions for the application of the prohibition. Third, in some situations information may not be readily available and there are likely to be difficulties regarding calculation of economic profit from accounting data. Moreover, there is little guidance for determining when the price-cost margin is excessive and when a price is unfair when comparisons are drawn. Fourth, due to the problems with the *United Brands* test, it is likely that any case brought on grounds of excessive pricing will be unsuccessful. Therefore, if there is any deterrence effect at all, it will be small and, although Type I errors (false positives) will be rare, it will also be extremely difficult to intervene to prevent direct harm to consumers in the exceptional circumstances where adverse effects of intervention are minimal.

A Procedure based upon Dual Entitlement

The principle of dual entitlement states that a firm and its customers are entitled to the terms of trade of a given reference transaction (Kahneman *et al*, 1986a). It is unfair for a firm to charge a price that impinges upon the entitlement of its customers to realise a potential gain for itself. If market conditions change, it is not unfair for a firm to set worse terms of trade than the reference transaction to maintain (at most) its own entitlement. Using the principle of dual entitlement to an extent, a procedure can be developed to assess when an (exploitatively) excessive price is unfair, operationalising the second stage of the *United Brands* test.



* *This article is based on P Akman and L Garrod 'When Are Excessive Prices Unfair?' CCP Working Paper 10-04 an updated version of which is forthcoming in Journal of Competition Law and Economics (2010).*

The first step determines whether the terms of trade are significantly different compared to a given reference transaction. Regarding the reference transaction, although there are various comparators that can be used, the firm's past price(s) appears to be the most appropriate for the assessment (see Akman and Garrod, CCP Working Paper 10-4). The second step determines whether the firm has gained at its customers' expense. The final step considers whether it is in the remit of competition law to intervene due to the unfairness of the price. Although the principle of dual entitlement deems prices unfair with respect to exogenous fluctuations in supply and demand, in our procedure prices should only be found unfair if they are unfair due to competition issues. Consequently, an abuse should only be found if the firm gains sufficiently at the expense of customers due to a lack of competition.

This procedure can improve the current law when examined under the effective test criteria above. First, the procedure is well-defined as it is based on a principle built on the 'unfairness' perception of the members of society. It can explain *when* and *why* prices are unfair relative to comparable prices. Second, the procedure provides greater legal certainty than the current law, because firms know that their past prices will be the most prominent comparator. Therefore, firms will be aware that if they set prices significantly higher than the recent past, such prices risk being found abusive if they are caused by a lack of competition. Third, it should be relatively simple to use this procedure: a comparison should exist in most cases and the steps involved do not require complex analysis. Fourth, using this procedure has the potential to increase the likelihood that a case will be successful, which may increase welfare in the exceptional circumstances where the prohibition should be applied.

Conclusion

If followed, the procedure developed may help to improve the *ex ante* legal certainty of the current law and in turn lead to a more effective prohibition. Nevertheless, this improvement may be a short-term solution to one of a number of problems regarding the abuse of excessive pricing. For the long-term it is important for policymakers to reconsider how exploitation is dealt with in Article 102TFEU. Several of the problems arise because the prohibition of excessive prices focuses on the *effect* of a lack of effective competition rather than the *cause*. Reconsidering whether structural remedies can be imposed to resolve exploitative practices may be necessary to lead to better outcomes post-intervention than the current regulation.

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Director's letter: News from CCP

Catherine Waddams

CCP was delighted to welcome Suzy Adcock in July, as our new Centre Manager. Suzy was Chief Operating Officer for the British Polish Chamber of Commerce, and previously worked at the Confederation of British Industry. Her predecessor, Stuart White, stayed to help ensure a seamless handover before leaving to spend a year in Boston, US. Two other long established members of the Centre also left over the summer – John Ashton to Bangor University, and Kathryn Wright to York University. We welcomed former doctoral student Sebastian Peyer to his new three-year research associate position in the Centre and the newly appointed head of Norwich Business School, Paul Dobson, who joins UEA from Loughborough University, to Centre membership. We also welcome two new Law faculty members, Daithi Mac Sithigh and Peter Whelan and congratulate Graham Loomes on his election to the British Academy. Amongst our PhD students, Catherine Ball (Economics) successfully defended her thesis, and we welcome several new masters and doctoral students with the new academic year, including George Musgrave and Ana Fitzsimons, who hold ESRC quota awards with the Centre. Details of their research and that of other CCP students are at http://www.uea.ac.uk/ccp/people/students.

We congratulate several of the Centre's former PhD students who graduated in a ceremony held over the summer, including Felix Mezzonatte (Law), Matt Olczak (Economics), Yan Li (Economics) and Peter Ormosi (NBS), who has begun a lectureship in Norwich Business School.

As well as the research reflected in the articles in this newsletter, you can see our continuing programme and latest publications at http://www.uea.ac.uk/ccp/publications