



## **COLLUSION: ONE MODEL FITS ALL?**

**Thursday 25<sup>th</sup> May, 5:00 – 7:00pm**

**Simmons & Simmons, CityPoint, 1 Ropemaker Street, London, EC2Y 9SS**

**Welcome:** Tony Woodgate, Partner, EU & Competition Department, Simmons & Simmons

**Chair:** Tom Sharpe, QC, One Essex Court and CCP Advisory Board

**Presenters:** Stephen Davies, Professor of Economics, CCP and School of Economics  
Morten Hviid, Professor of Competition Law, CCP and Norwich Law School

The ESRC Centre for Competition Policy (CCP) is the leading focus for interdisciplinary research into competition policy in the UK.

### **Session 1 - Professor Morten Hviid - Collusion as seen by economists**

This short introductory session explores the way economists, and especially game theorists, have approached collusion. It first highlights the tension between firms' individual and collective interests. It then explores the means by which repeated interaction between the firms in a market can translate into anti-competitive pricing and the conditions under which this is likely to occur. Of particular interest is how much firms need to "communicate" in order to coordinate their strategies and the meaning of "punishment" in repeated games of collusion.

### **Session 2 - Professor Morten Hviid - Cartels and concerted practices**

The session combines the insights from economics with US, EU and UK competition law. The aim is to clarify why there sometimes appear to be a disconnect between the economics and the law. Some light can be shed on this by focusing on what can be proven rather than on the effects on consumers. While the economic model behind hard core cartels, concerted practices and conscious parallelism [or tacit collusion] is the same, the law has to treat these differently for reasons of evidence and to guard against errors. Differences can also be found in the types of remedies used in each of these three instances of collusion. Finally we want to dig deeper into what might constitute concerted practices.

### **Session 3 - Professor Stephen Davies - Tacit collusion**

Tacit collusion is a phrase not without semantic ambiguity. This session starts with a discussion of its meaning and the claim that, in many forms, tacit collusion is not illegal. Arguably, therefore, Articles 81 and 82 may be impotent and the only significant point of policy intervention is preventative through merger control. Moreover, outside of textbook economic theory, it is intrinsically difficult to detect. Here we report some of the findings of our current large scale empirical study of EC merger cases in which tacit collusion (collective dominance) had a potential role. We use this as an indirect way of shedding light on the circumstances under which tacit collusion may arise

### **Session 4 - Professor Stephen Davies - Fault lines**

Here we return to the earlier theme – that economic theorists tend to apply the same game theoretic model to all forms of collusion. Is this appropriate? For example, does a punishment strategy have the same interpretation for hard-core and soft-core collusion? Similarly, is the distinction between the smaller members of a collusive group and the larger fringe players as clearcut as assumed in theory. We move on to explore the notion that there is a spectrum of collusive practices, and ask: how closely substitutable are they? Why do firms choose to cartelise in some circumstances, while being content to tacitly collude in others? This question is not merely of academic interest since, for example, the efficacy of cartel policy depends on 'what comes next'. Should we simply assume that members of a bust Trust will thereafter behave non-cooperatively, or are tacitly collusive equilibria (or mergers) the more natural response?

The purpose of the workshop is to create a lively dialogue. This is especially true for session 4, and we will structure our presentations to leave sufficient space for contributions from the floor.

## About the Presenters:

### Professor Stephen Davies

Stephen Davies is Professor of Economics in the School of Economics at UEA. His research interests include: economics of competition policy; European industrial structure; merger simulation; multinational firms. He is a member of the Academic Panel which advises the Office of Fair Trading. He was formerly the General Editor of The Journal of Industrial Economics. He is currently working on: merger remedies, competition using non-linear pricing in the electricity market; and the demand for TV advertising.

### Professor Morten Hviid

Morten Hviid was appointed to the Norwich Law School in September 2004 as a Professor in Competition Law. He has previously held posts in Economics Departments at the Universities of Copenhagen, East Anglia and Warwick. His research interests are primarily in issues relating to collusion and issues relating to the role of private enforcement in competition law. He is a former editor of the journal of Industrial Economics and former associate editor of the International Journal of Industrial Organization.

This event is kindly hosted by Simmons & Simmons

**Simmons & Simmons**

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