Anti-trust and the ‘Beckerian Proposition’: the Effects of Investigation and Fines on Cartels

BACKGROUND

- In order to deter collusion and punish the infringement of competition law, anti-trust authorities run costly investigations and levy fines on detected and convicted wrongdoers.
- The resources committed to anti-trust investigations and the fine level vary across countries.
- It is claimed that different combinations of magnitude of fine and likelihood of detection are substitutable in their deterrence effect: this is the Beckerian Proposition. Since detection depends on costly investigation, it is optimal to minimize detection efforts and impose high fines.
- Recently, the UK Office of Fair Trading faced a budget reduction that may affect detection efforts, while it simultaneously increased colluding firms’ fines from 10% to 30% of annual turnover.
- Experimental support for the Beckerian Proposition is mixed in different contexts, and it is not known from a behavioural perspective how effective this type of policy design would be in a market.

METHODOLOGY

- The authors utilise a market experiment to study the effects of magnitude and likelihood of fines on cartel activity, prices and collusive stability.
- In the experiment, 180 participants play the role of a firm in a modified version of a cartel formation game where the probability of detection and the amount of anti-trust fines is varied.

KEY FINDINGS

- In the absence of a leniency programme, detection rates and fines are indeed substitutable with respect to deterrence, in compliance with the Beckerian Proposition.
- In the presence of a leniency programme, a regime that embodies low rates of detection and high fines reduces the propensity to collude and lowers the overall incidence of cartelized markets significantly more than a high detection and low fine regime.
- Consumer welfare is the highest for a higher fines and lower detection rates regime with leniency.
- There is no support for the claim that a tougher punishment regime may lead to more severe crime.
- Deviation (from cartel arrangements) and reporting rates do not differ significantly between different detection-fine combinations.

POLICY ISSUES

- Findings provide empirical support for the policy move orchestrated by the Office of Fair Trading: antitrust agencies can economize on enforcement costs and achieve a higher degree of deterrence by imposing a higher level of fines.
THE CCP

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