

Title: Post-Cartel Tacit Collusion: Determinants, Consequences, and Prevention

KEYWORDS: tacit collusion; antitrust; cartels; price hysteresis; experiment

BACKGROUND

- This paper investigates the existence, determinants, consequences, and prevention of post-cartel tacit collusion (PCTC), i.e., the phenomenon that firms do not revert directly to competition after (price-fixing) cartels have ended.

METHODOLOGY

- The paper relies on laboratory experiments to test the extent to which PCTC is affected by the existence or absence of antitrust authorities, which can impose fines on detected collusion and implement leniency programmes, or alternatively debarment programmes for convicted managers in cartels.
- A theoretical model is introduced to derive predictions in order to ascertain (1) how different competition laws might affect PCTC and (2) what factors might determine PCTC.

KEY FINDINGS

- PCTC is found to be determined both by collusive price hysteresis and learning in cartels. The former denotes firms' behaviour to keep charging high prices after the end of cartels in order not to risk a price war leading back to competitive prices. The latter describes firms' ability to learn about each others' types and strategies in the cartel, which facilitates PCTC.
- The magnitude of supercompetitive prices (i.e., prices above competitive levels) is found to be increasing with preceding cartel success.
- Debarment programmes for managers, requiring cartel managers to leave the market (or taking up similar positions in other markets), are found to be effective in preventing PCTC, but also to destabilise cartels.

POLICY ISSUES

- The findings suggest that the most harmful cartels might also profit the most from PCTC. On the one hand, they might be able sustain to high supercompetitive profits after the end of the cartel. On the other hand, they might receive the least-detering cartel fines if PCTC is not taken into account.
- The results call for caution with respect to relying on price-based estimation techniques using post-cartel data for cartel overcharges. This is particularly the case

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if trust among former cartel members has not been eroded, e.g., due to leniency applications or deviation from the cartel agreement.

- An effective competition policy should rely both on leniency and debarment programmes to deter cartels and minimise the negative welfare effects of PCTC.

THE CCP

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