

# THE POLITICAL ECONOMY OF ANITITRUST

Edited by

Vivek Ghosal

*Georgia Institute of Technology, Atlanta, USA & CESifo, Munich, Germany*

John Stennek

*Research Institute for Industrial Economics, Stockholm,  
Sweden & CEPR, London, UK*



ELSEVIER

Amsterdam • Boston • Heidelberg • London • New York • Oxford • Paris  
San Diego • San Francisco • Singapore • Sydney • Tokyo

# Contents

|  |           |
|--|-----------|
| Introduction to the Series   | v         |
| Acknowledgements   | vii       |
| List of Contributors   | xv        |
| <b>Chapter 1. Issues in Antitrust Enforcement</b>  | <b>1</b>  |
| <i>Vivek Ghosal, Joseph E. Harrington and Johan Stennek</i>  |           |
| 1.1. Shifting winds in antitrust   | 2         |
| 1.2. Enforcement of cartels  | 3         |
| 1.3. Merger control  | 9         |
| 1.4. Non-merger enforcement  | 16        |
| 1.5. Systemic issues   | 20        |
| Acknowledgements   | 21        |
| References   | 21        |
| <b>Chapter 2. Remembrance of Things Past: Antitrust, Ideology, and the Development of Industrial Economics</b> | <b>25</b> |
| <i>Stephen Martin</i>  |           |
| 2.1. Introduction  | 25        |
| 2.2. Early development   | 27        |
| 2.3. The First Chicago School  | 32        |
| 2.4. The Second Chicago School   | 34        |
| 2.5. Confronting the oligopoly problem   | 37        |
| 2.6. Chicago transformed   | 44        |
| 2.7. Final thoughts  | 45        |
| Acknowledgements   | 47        |
| Appendix   | 47        |
| References   | 52        |
| <b>Chapter 3. The Impact of the Corporate Leniency Program on Cartel Formation and the Cartel Price Path</b>   | <b>59</b> |
| <i>Joe Chen and Joseph E. Harrington</i>   |           |
| 3.1. Introduction  | 59        |
| 3.2. Model   | 61        |
| 3.3. Optimal symmetric subgame perfect equilibrium   | 66        |
| 3.4. Numerical analysis  | 70        |
| 3.5. Summary   | 78        |
| Acknowledgements   | 79        |
| References   | 80        |

|   |     |
|---|-----|
| Chapter 4. Optimal Fines <b>in the Era of Whistleblowers. Should Price Fixers still Go to Prison?</b> | 81  |
| <i>Paolo Buccirossi and Giancarlo Spagnolo</i>  |     |
| 4.1. Introduction   | 82  |
| 4.2. Fines without leniency   | 85  |
| 4.3. Leniency, whistleblowers, and optimal antitrust fines  | 100 |
| 4.4. Implementing the optimal fine efficiently  | 109 |
| 4.5. Conclusion   | 118 |
| Acknowledgements  | 119 |
| References  | 120 |
| <br>  |     |
| <b>Chapter 5. Instruments for Cartel Deterrence, and Conflicts of Interests</b>                       | 123 |
| <i>Cecile Aubert</i>  |     |
| 5.1. Introduction   | 123 |
| 5.2. The various instruments used for cartel deterrence in major O.E.C.D. countries                   | 128 |
| 5.3. May we expect freely provided information on collusive practices?                                | 131 |
| 5.4. Managerial incentive contracts and collusion   | 135 |
| 5.5. Managers' incentives with antitrust intervention   | 141 |
| 5.6. Conclusion   | 145 |
| Acknowledgements  | 146 |
| References  | 146 |
| <br>  |     |
| <b>Chapter 6. Lessons for Competition Policy from the Vitamins Cartel</b>                             | 149 |
| <i>William E. Kovacic, Robert C. Marshall, Leslie M. Marx and Matthew E. Raiff</i>                    |     |
| 6.1. Introduction   | 149 |
| 6.2. Literature   | 153 |
| 6.3. Coordinated effects analysis   | 153 |
| 6.4. Data from the vitamins industry  | 155 |
| 6.5. Analysis   | 162 |
| 6.6. Conclusion   | 174 |
| Acknowledgements  | 174 |
| Appendix. Review of a simple model  | 174 |
| References  | 175 |
| <br>  |     |
| <b>Chapter 7. Effectiveness of Antitrust Sanctions on Modern International Cartels</b>                | 177 |
| <i>John M. Connor</i>   |     |
| 7.1. Introduction   | 177 |
| 7.2. Background on the issues   | 180 |
| 7.3. Literature review  | 186 |
| 7.4. Description of the sample  | 187 |
| 7.5. Measures of effectiveness  | 190 |
| 7.6. Conclusions  | 204 |
| Acknowledgements  | 206 |
| Appendix table: Sample  | 207 |
| References  | 213 |

|   |     |
|---|-----|
| <b>Chapter 8. The Economics of Tacit Collusion: Implications for Merger Control</b>                                       | 217 |
| <i>Marc Ivaldi, Bruno Jullien, Patrick Rey, Paul Seabright and Jean Tirole</i>  |     |
| 8.1. Introduction   | 217 |
| 8.2. The economics of tacit collusion   | 218 |
| 8.3. Relevant factors for collusion   | 219 |
| 8.4. A mathematical illustration  | 228 |
| 8.5. Collusion in other dimensions than prices  | 233 |
| 8.6. Implications for merger control  | 235 |
| References  | 237 |
| <br>  |     |
| <b>Chapter 9. The Economics and Politics of International Merger Enforcement: A Case Study of the GE/Honeywell Merger</b> | 241 |
| <i>Jay Pil Choi</i>   |     |
| 9.1. Introduction   | 241 |
| 9.2. A brief history of the GE/Honeywell merger case  | 243 |
| 9.3. Economic theory behind the EC's decision   | 245 |
| 9.4. The American criticism and "politicization" of the case  | 249 |
| 9.5. Looking forward with a silver lining   | 252 |
| 9.6. Concluding remarks   | 256 |
| Acknowledgements  | 257 |
| References  | 257 |
| <br>  |     |
| <b>Chapter 10. The Political Economy of EU Merger Control: Small vs. Large Member States</b>                              | 259 |
| <i>Henrik Horn and Johan Stennek</i>  |     |
| 10.1. Introduction  | 259 |
| 10.2. The asymmetric treatment of small and large countries   | 261 |
| 10.3. Proposal 1: Reduce market segmentation  | 263 |
| 10.4. Proposal 2: Change geographical market delineations   | 265 |
| 10.5. Proposal 3: Change the objective of EU merger control   | 266 |
| 10.6. Proposals 4-5: Take alternative mergers and location into account   | 269 |
| 10.7. Summary and concluding discussion   | 281 |
| Acknowledgements  | 284 |
| References  | 284 |
| <br>  |     |
| <b>Chapter 11. A Consumer Surplus Defense in Merger Control</b>   | 287 |
| <i>Sven-Olof Fridolfsson</i>  |     |
| 11.1. Introduction  | 287 |
| 11.2. Related literature  | 291 |
| 11.3. A simple model  | 293 |
| 11.4. A consumer surplus defense  | 295 |
| 11.5. Underlying market interactions  | 298 |
| 11.6. Concluding remarks  | 300 |
| Acknowledgements  | 301 |
| References  | 301 |

|   |     |
|---|-----|
| <b>Chapter 12. EU Merger Remedies: An Empirical Assessment</b>  | 303 |
| <i>Tomaso Duso, Klaus Gugler and Burcin Yurtoglu</i>  |     |
| 12.1. Introduction  | 303 |
| 12.2. The evidence on merger remedies   | 306 |
| 12.3. Institutional background  | 312 |
| 12.4. Merger remedies   | 315 |
| 12.5. Approach and hypotheses   | 319 |
| 12.6. The data, the estimated abnormal returns, and mergers taxonomy  | 326 |
| 12.7. Results and discussion  | 334 |
| 12.8. Conclusions   | 344 |
| Acknowledgements  | 345 |
| References  | 346 |
| <br>  |     |
| <b>Chapter 13. The Significant Impediment of Effective Competition Test in the New European Merger Regulation: In Theory and Practice</b> | 349 |
| <i>Jerome Foncel, Marc Ivaldi and Valerie Rabassa</i>   |     |
| 13.1. Introduction  | 349 |
| 13.2. The EC merger regulation  | 350 |
| 13.3. The role of the empirical analysis  | 355 |
| 13.4. An empirical illustration: The Lagardere/Editis case  | 358 |
| 13.5. Conclusion  | 366 |
| References  | 366 |
| <br>  |     |
| <b>Chapter 14. Vertical Restraints and the Effects of Upstream Horizontal Mergers</b>   | 369 |
| <i>Luke Froeb, Steven Tschantz and Gregory J. Werden</i>  |     |
| 14.1. Introduction  | 369 |
| 14.2. Game I: Transparent retail sector   | 371 |
| 14.3. Game II: Opaque retail sector   | 373 |
| 14.4. Game III: Double marginalization  | 374 |
| 14.5. An illustrative example   | 376 |
| 14.6. Conclusions   | 379 |
| References  | 380 |
| <br>  |     |
| <b>Chapter 15. Political Stabilization by an Independent Regulator</b>  | 383 |
| <i>Antoine Faure-Grimaud and David Martimort</i>  |     |
| 15.1. Introduction  | 383 |
| 15.2. The model   | 387 |
| 15.3. Affiliated regulators   | 393 |
| 15.4. Stabilization with an independent regulator   | 395 |
| 15.5. Comparative statics   | 398 |
| 15.6. Constitutional design   | 400 |
| 15.7. Endogenous political uncertainty  | 404 |
| 15.8. Concluding remarks  | 406 |
| Acknowledgements  | 407 |
| Appendix A15  | 407 |
| References  | 415 |

|   |     |
|---|-----|
| <b>Chapter 16. Saving Section 2: Reframing U.S. Monopolization Law</b>              | 417 |
| <i>Timothy J. Brennan</i>   |     |
| 16.1. Section 2's unfortunate distinctiveness                                       | 417 |
| 16.2. The fallacious syllogism  | 421 |
| 16.3. Spurious screen #1: Dominance in primary market                               | 424 |
| 16.4. Spurious screen #2: Profit sacrifice  | 428 |
| 16.5. The "complement market monopolization" alternative                            | 431 |
| 16.6. CMM applications  | 435 |
| 16.7. Game theoretic monopolization   | 442 |
| 16.8. The fix: Delete "or maintain" from Section 2 practice                         | 446 |
| 16.9. Summary   | 447 |
| Acknowledgements  | 448 |
| References  | 448 |
| <br>  |     |
| <b>Chapter 17. Private Antitrust Litigation: Procompetitive or Anticompetitive?</b> | 453 |
| <i>R. Preston McAfee, Hugo M. Mialon and Sue H. Mialon</i>                          |     |
| 17.1. Introduction  | 453 |
| 17.2. Theory  | 456 |
| 17.3. Conclusion  | 461 |
| Acknowledgements  | 462 |
| References  | 462 |
| <br>  |     |
| <b>Chapter 18. Antitrust in Open Economies</b>                                      | 463 |
| <i>Joseph Francois and Henrik Horn</i>  |     |
| 18.1. Introduction  | 463 |
| 18.2. The model   | 465 |
| 18.3. Antitrust in a trade-only equilibrium   | 468 |
| 18.4. Antitrust with both trade and FDI   | 476 |
| 18.5. Summary   | 480 |
| Annex: Derivation of Equation (18.11)   | 482 |
| References  | 482 |
| <br>  |     |
| Subject Index   | 485 |