

# Dynamic Merger Policy: Comments

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# Disclaimer

Views are mine, and do not represent  
Commission or any Commissioner

# One-at-a-Time Merger Policy

- *Assess this proposed merger*
  - Focus also of most of the econ literature
- N&W: Why do that?
  - N&W 2008: When would that be optimal?
    - Reject “enough is enough” intuition
  - N&W 2010: Opportunity cost is an alternative merger

# Opportunity Cost

- But-for world
  - Counterfactual
- Coordination?
- Another merger?

# Enough is enough?

- PCS mergers
- N&W 2008
  - As in F&S 1990, MC efficiency  $> p - c$ 
    - Technical sense in which  $D = 1$
  - Hence strategic complementarity of good mergers
- ???

# Proposition 1 and Actual Policy

- N&W Prop. 1: optimal policy
  - demands no loss in CS from smallest merger;
  - demands more gain in CS from bigger merger
- Actual policy
  - Courts plausibly more apt to comply with agency request to block bigger merger
  - System (perhaps agency) looks for more (other) assurance of no harm to CS in bigger merger
    - Demands more (other) proof of harm to block smaller merger
- Similar?

# N&W as Antitrust Optimists

- N&W 2008: Only mergers that expand output and benefit consumers are allowed
- N&W 2010: Agency “should” (can) block mergers that don’t benefit consumers by enough
- What if agencies face more skeptical environment?
- What’s the evidence?

# Merger Retrospectives

- Many retrospectives find price increases
  - Focus more on marginal/controversial mergers,
  - but all mergers studied went through...
- Some find mixed or inconclusive results
- Few clearly find that merger increased output and benefited consumers
  - Focarelli and Panetta (2003), Breen (2004)



# A Less Optimistic Perspective

- Some mergers expected to benefit consumers
- Some expected to harm consumers, and can likely be blocked
- Some expected to harm consumers, but agency plausibly cannot block them
- Negotiate on remedies, not always from very strong position

# What is next from N&W?

- 2008: permission to be myopic
- 2010: permission to be a bit hostile to size
- 2012:....?

# A different ambitious agenda

- Confident and convincing predictions
  - Green lights
  - Red lights