ABSTRACT

This paper presents an analysis of the merger decisions between 1982-1992. The survey of cases suggests that the plaintiffs win roughly half the time. Plaintiffs were no more likely to win if a case was heard by a judicial panel dominated by Republican than Democratic appointees. In addition, the plaintiffs were no more likely to win in the second half of the decade than in the first half of the period. Further analysis suggests that barriers to entry and various competitive factors supplement the Herfindahl statistic in predicting the outcome of the case. Additional models link barrier and competitive conditions findings to exogenous factors such as the DOJ as a plaintiff and the filing for a preliminary injunction.

incorporated into the court decision. The DOJ dummy variable is also included to test for differences across plaintiffs. The third variable, a time index defined as the number of months between the final merger decision and January 1982, allows for an increase in the number of factors both compatible and incompatible with collusion as courts obtain more familiarity with economic theory and the merger guidelines. A final variable proxies the effect of a preliminary injunction case on the opinion. One would expect preliminary injunction trials would have less detailed opinions, so the preliminary injunction variable should have a negative effect on both dependent variables.

Tobit models are estimated for the two equations.[20]

For = 1.225 - .0001586 CHHI - 3.035 DOJ + .01669 Time - .9431 PI
(1.13) (-.63) (-3.03) (1.2) (-1.16)

sigma = 2.024 Pseudo R^2 = .0772 Chi-square = 9.46

Agst = .6761 - .001074 CHHI -.8195 DOJ + .01518 Time - 1.594 PI
(.55) (-2.44) (-.88) (.99) (-1.86)

sigma = 2.122 Pseudo R^2 = .1239 Chi-square = 13.74.

Overall, the models generate few significant coefficients and explain roughly 10 percent of the variance in the dependent variables, however, both of the models have significant Chi-square

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