My comments

• Defending market definition
  – Farrell’s main points
  – The need for threshold levels

• Market definition’s role
  – More scope for it than indicated by Farrell?

• Market definition vs the new approach (UPP)
  – SSNIP and UPP quite closely related?

• Some lessons
  – On the right track
  – Experience in Norway
Farrell on market definition

• What is the *appropriate role for market definition and analysis of concentration* (MDAC)?
  – If not constrained by court

• Not so much in unilateral conduct (non-coordination)
  – If differentiation, diversion ratios and margins matter
  – But then not so much areas MDAC could cover?
  – Coordination; # of rivals and their size matters?
  – In search for other areas

• Market definition relevant when market definition is obvious!
The market definition approach: Nice with threshold values

• Helpful for structuring the analysis
  – Market definition (MD) to define the competitive landscape; products and geography
  – Given MD, analyse the nature of competition between the firms in the same market
    • Anti-competitive merger?
  – Consider efficiency gains, if any

• Can then have some safe harbours
  – Using market shares threshold levels, both for dominance and for clearing some mergers ...
  – .. and the lawyers are quite happy
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Sørgard - Market definition comments
Unilateral I: Capacity constrained firms

• What about old style industries, such as steel etc?
• # of firms and market shares may then matter
  – Competition a la Cournot
  – If homogenous products, HHI and ΔHHI can be a good proxy for nature of competition and harm
• Then it really makes sense to talk about # of rivals and their market shares
  – Even so with capacity constraints and differentiated products?
  – No clear link to HHI, but still relevant to do the old style analysis?
Unilateral II: # of firms matters

• Bidding market
  – Number of firms may affect each firms’ bid
  – A sort of market definition may help us to find the potential bidders?

• Electricity market: Residual demand approach (RSI = Residual Supply Index)?
  – Must look at all the firms and their capacities
  – Who is the pivotal player, if any?
  – A merger leads to a pivotal player?
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SSNIP vs Critical Loss vs UPP

- **SSNIP** ≈ The hypothetical monopolist test
  - Profitable to monopolise the market?
- **SSNIP test quantified in critical loss (CL) test:**
  - Product 1 and product 2 in the same market if:

\[
D > \frac{\alpha}{\alpha + L}
\]

- Diversion ratio from 1 to 2 (and reverse)
- Price-cost margin

- **CL shares some similarities with the UPP approach:**
  - Diversion ratio
  - Margin
Market definition closely related to UPP

- A proper SSNIP (= CL analysis) means that **diversion ratio** and **margins** matters for market definition

- Similarities, but CL less informative than UPP?

- We are concerned about *how* close rivals
  - Not yes or no, as in CL (market def.)
  - Better as in UPP, considering a scale
    - Some are close, others not
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An economist’s view: On the right track!

• Old school – Bananas
  – Product characteristics often decisive
  – ’Toothless fallacy’
    • Bananas are soft
    • Old and very young can eat them, but not other fruit
    • But forgot all other people
  – EU Guideline from 1997 very clear (see para. 36)
    • Strong warning against product characteristics

• Not so old school – SSNIP and Critical Loss (CL)
  – EU Guideline refers to economic methods (38-43)
    • Shock analysis, price correlations, demand studies, etc

• New school – Upward Pricing Pressure (UPP)
  – UK/US 2010 merger guidelines
    • More direct assessment of competitive harm
    • Even closer link to economics
The experience in Norway

• Long time a traditional approach, and still so to a large degree in abuse and cartel cases
  – Abuse: Threshold level important for dominance

• Gradually a more pragmatic approach in merger control
  – Market delineation is still a chapter in our decisions on merger control
  – But we do not always conclude firmly
  – Indicates the market definition, but more as a framework for the competitive assessment
  – In some cases not even market shares mentioned
Ex. from pizza merger: Market definition is not at all clear cut

• A narrow market:

• A broad market:
Our approach in the pizza merger: Market definition as a framework

- Indicates a possible market definition, but we do not conclude

- Given that, we discuss how close rivals the merging parties are