The Assessment of Unilateral Merger Effects: Application of Upward Pricing Pressure Indices

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Abstract

The most noticeable and significant changes in the 2010 U.S. Horizontal Merger Guidelines (2010 Guidelines) relative to the 1992 Guidelines have been the ascendency of unilateral effects as the most often adopted theory of the adverse effects of mergers in differentiated-product industries and the challenge of the role of market definition in merger analysis. The 2010 Guidelines further propose the application of upward pricing pressure (UPP) which is grounded in economics and calculated based on price/cost margins and the diversion ratios between the merging firms, as a simple initial indicator, for diagnosing unilateral price effects. To meet the new trend of merger enforcement, this paper aims to expound the essentials of the 2010 U.S. Horizontal Merger Guidelines through the foundation of economic theory, and to derive and elaborate on the practical formula for the UPP test. Furthermore, we apply UPP to the practical merger case of the stainless steel industry in Taiwan (2009) and investigate the policy implications. The results of this paper confirm that the economic basis of UPP is consistent with the first-order equilibrium condition of joint profit maximization for the merging firms in markets for differentiated products. In addition, the results of UPP applied in practical cases prove the usefulness of this indicator. Therefore, with a view to strengthening the effectiveness of merger enforcement, this paper suggests that UPP is a useful screen for diagnosing the likely unilateral effects in merger analysis.

Keywords: Horizontal Merger Guidelines, Unilateral Effects, Upward Pricing Pressure, Diversion Ratio, Differentiated-product Industry.

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