**Dataset: UK Competition Judgements 1950-2005**

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**CCP ref: 11JA**

**Data selection**

The data is comprised of coded competition investigations made under UK competition laws over the period 1950-2005. The competition authority investigations examined are drawn from the 504 cases published by the UK Competition Commission over the period 1950 (the first year from which the cases are publicly available) to 2005. From this population, all cases examining competition within a market are selected (*n*=162). This predetermined selection was made to focus only on cases examining potential competition law violations within a specified economic market. These competition cases are investigated following a reference under UK competition law, currently defined as sections 131 and 132 in the Enterprise Act (2002). The cases which report on mergers, public utilities, reviews of industry practices or media assets were not considered as these cases are undertaken for reasons other than the assessment of anti-competitive conditions and often follow a reference outside competition law.

**Coding approaches**

The form of content analysis employed was observational or manifest in form, rather than involving the latent interpretation of the meaning of textual statements (see Kondracki *et al* 2002). The frequency of values and terms common to reports and of pertinence to the research questions are recorded and trends quantified. The process of classifying cases was conducted independently by two academic judges to assess the trustworthiness of the case selection and highlight inconsistencies. In cases of disagreement, both academic judges re-considered the primary data to agree an appropriate determination. While no appropriate level of inter-coder reliability for content analysis exists, a very high degree of consensus was achieved in coding cases due to the explicit link between marketing behaviour and anticompetitive practices in most cases.

**Coding of variables**

The market cases are classified in terms of market size, number of market participants, geographic focus, the industry considered and the outcome of the case. Cases were also defined as ‘marketing related’ or ‘not marketing related’. For the purposes of definition, marketing was viewed to be: “*…an organizational function and a set of processes for creating, communicating and delivering value to customers and for managing customer relationships in ways that benefit the organization and its stakeholders*” (American Marketing Association 2004). Therefore, a case was recorded as having marketing implications if (i.) the marketing function was *explicitly* engaged in a potentially anticompetitive behaviour (e.g. “the *marketing* of certain goods”) or else, (ii.) where marketing action was considered *implicitly* within a case (e.g. “the *advertising* of certain goods”). A coding schema was inductively developed and based on a content appraisal of marketing actions and practices (e.g. branding, advertising) in order to select the sub-samples of cases viewed to have, or not have, substantial marketing associations.

An initial content analysis of the cases was undertaken to establish those cases linked to marketing practice. If after reading the selected cases an association with marketing was identified, key terms associated with these practices were noted. These identified codes included pricing, distribution, advertising, branding, promotion, selling and sales, discounts, reputation and loyalty. The classification of competition reports used for this sample selection and the characteristics of the selected competition cases are reported in Table 1.

Throughout the analysis a compendium of six anticompetitive behaviours following a framework forwarded by the UK competition authorities (Competition Commission 2003; Office of Fair Trading 2004, 2005) were adopted in order to accurately attribute marketing behaviours and actions to specific anticompetitive practices. These anticompetitive behaviours are readily identifiable in the competition commissions’ investigations and include (i) excessive prices; (ii) price discrimination; (iii) predation; (iv) discounts; (v) vertical restraints; and (vi) refusal to supply and essential facilities.

**Table 1**

**Types of UK Competition Reports and Sample Characteristics**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Types of UK Competition Reports** | **Time period** | **1950-59** | **1960-69** | **1970-79** | **1980-89** | **1990-99** | **2000-05** | **Overall** |
| Total cases | 23 | 32 | 66 | 142 | 166 | 75 | 504 |
| Merger | 0 | 10 | 21 | 57 | 92 | 61 | 241 |
| Market reports | 21 | 16 | 36 | 40 | 42 | 7 | 162 |
| Transfer of media assets | 0 | 2 | 6 | 12 | 14 | 3 | 37 |
| Utilities and associated reports | 0 | 0 | 0 | 31 | 18 | 4 | 53 |
| Other miscellaneous cases | 2 | 4 | 3 | 2 | 0 | 0 | 11 |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Sample Characteristics of the Selected Market Cases**  | Number of Cases | 21 (13) | 16 (10) | 36 (23) | 40 (25) | 42 (26) | 7 (4) | 162 (100) |
| Average market size in 2005 prices (£m) | 664.92 | 1060.92 | 1378.92 | 1966.01 | 2344.34 | 20400.97 | 2450.06 |
| Average Number of Firms | 638.67 | 245.73 | 6.19 | 149.10 | 30.90 | 12.57 | 153.24 |
| *Geographic Focus %* |  |  |  |  |  |  |  |
| Regional | 2 (10)  | 0 (0) | 0 (0) | 3 (8) | 5 (12) | 1 (14) | 11 (7) |
| National | 4 (19) | 9 (56) | 23 (64) | 27 (68)  | 28 (67) | 4 (57) | 95 (59) |
| International | 15 (71) | 7 (44) | 13 (36) | 10 (25) | 9 (21) | 2 (29) | 56 (34) |
| *Type of industry* |  |  |  |  |  |  |  |
| Manufacturing | 18 (85) | 13 (81) | 12 (33) | 13 (33) | 10 (24) | 2 (29) | 68 (42) |
| Services | 1 (5) | 1 (6) | 16 (44) | 17 (43) | 21 (50) | 3 (42) | 59 (36) |
| Distribution | 1 (5) | 0 (0) | 3 (8) | 7 (17) | 4 (10) | 0 (0) | 15 (9) |
| Primary Production and Food | 1(5) | 2 (13) | 5 (14) | 3 (7) | 7 (16) | 2 (29) | 20 (13) |
| Number of Cases Involving Marketing | 18 (86) | 6 (38) | 25 (69) | 22 (55) | 22 (52) | 6 (86) | 99 (61) |
| *Outcome of Competition Report* |  |  |  |  |  |  |  |
| None | 3 (14) | 4 (25) | 8 (22) | 8 (20) | 15 (36) | 1 (14) | 39 (24) |
| Partial Behavioural | 2 (10) | 3 (19) | 14 (39) | 13 (33) | 7 (17) | 4 (57) | 43 (27) |
| Complete Behavioural | 16 (76) | 9 (56) | 14 (39) | 17 (42) | 15 (36) | 2 (29) | 73 (45) |
| Structural | 0 (0) | 0 (0) | 0 (0) | 2 (5) | 5 (11) | 0 (0) | 7 (4) |

\*Figures in parentheses represent percentages.