Mergers after cartels: How markets react to cartel busts*

Steve Davies†

School of Economics, University of East Anglia, UK

Peter L. Ormosi‡

Norwich Business School, University of East Anglia, UK

December 2, 2013

*The usual disclaimer applies. The support of the Economic and Social Research Council and the ESRC Centre for Competition Policy is also gratefully acknowledged.

†School of Economics and ESRC Centre for Competition Policy, University of East Anglia, Norwich Research Park, NR4 7TJ, Norwich, United Kingdom, email: s.w.davies@uea.ac.uk

‡Norwich Business School and ESRC Centre for Competition Policy, University of East Anglia, Norwich Research Park, NR4 7TJ, Norwich, United Kingdom, email: p.ormosi@uea.ac.uk

Abstract

Most existing literature assessing the effectiveness of competition policy-focuses on short term impacts, ignoring the likelihood that firms and market mechanisms may take some time to respond to exogenously triggered changes such as policy interventions. This paper adopts a more dynamic perspective in the context of cartel detection by analysing subsequent developments in market structures through merger. Potentially, this can reveal useful information about the nature of subsequent competition in two ways: if a cartel bust has the desired objective of introducing fiercer competition, then marginal firms will exit, perhaps via acquisition, and concentration will rise; alternatively, mergers might be motivated by a desire by firms to instate a structure which is conducive to uncompetitive, but not illegal, conducts such as tacit collusion or price leadership. With data on a sample of 84 EC cartels, the paper employs a novel application of survival analysis to establish that cartel breakdown is indeed typically followed by intensive merger activity. This is most likely for cartels which had been detected via leniency applications and where concentration was relatively lower. In itself, this information is insufficient to discriminate between competitive and uncompetitive explanations. However, the paper also shows that in most markets the post-cartel structure is already consistent with potential market power, and in a number of those where it is not, the mergers move the markets in that direction. Surprisingly few post-bust mergers were investigated by the competition authority (in this case the European Commission), and further more in depth case study analysis is surely merited.