

Buyer Power in FMCG Mergers

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Outline

- Buyer power in merger assessment – where does it fit?
- Criteria for establishing buyer power
- Helpful factors
- Unhelpful factors
- Is too much weight given to negative factors?
- Implications of current approach – an impossible threshold?
- An alternative analytical framework?

Buyer power in merger assessment – where does it fit?

Unilateral effects

- Current approach: establish likelihood of price increase then consider mitigating factors, and whether buyer power is sufficient to eliminate potential of price increase (*Unilever/Sara Lee, BAT Skandinavisk/ Tobakskomagnî*)
- Alternative? Consider buyer power as one of several factors (low barriers to entry, alternative suppliers, low switching costs) in weighing up likelihood of price increase

Portfolio effects – a greater willingness to accept buyer power?
(*P&G/Gillette*)

Criteria for establishing buyer power

The test (*Guinness/Grand Metropolitan*):

- Certain customers account for large proportion of sales **AND** have the necessary technical facilities and bargaining skills to apply advantage
- Credible alternative suppliers

Horizontal Merger Guidelines

- may need to consider retailers' incentives to resist price increase
- must not just protect one customer segment
- must continue to exist post-merger

Very difficult to satisfy these criteria in FMCG

Helpful factors

- Concentrated customer base
 - certain customers account for large proportion of supplier's sales
- Strong competitors
 - ability to de-list and switch to alternative suppliers
- Gatekeeper role
 - control access to consumers through shelf space
- Retailer private labels
 - ability to switch to own private labels
 - knowledge of supply margins

Unhelpful factors

- "Must-have" brands
 - Is brand loyalty so strong that customers are unable to de-list?
- Cost to retailer of applying threats (e.g. delisting)
 - Potential loss of sales and customers
 - Are there sufficient alternatives both pre- and post-merger?
- Small customers
 - Unable to exert buyer power?
- Retailer incentives – a new obstacle to proving buyer power?
 - Will customers resist a price increase if it is applied across the market?

Is too much weight given to negative factors?

- Is there any such thing as a "must-have" brand?
- What about cost to supplier?
- Can small retailers exert bargaining power?
- Evidencing buyer power and incentives – margin analysis?

Implications of current approach – an impossible threshold?

- Merger analysis arguably does not take into account the full influence of buyer power
 - May be an important factor even where does not eliminate the risk of a price increase
 - Disproportionate weight is given to unhelpful factors
- Private label arguments have been subsumed by buyer power which diminishes their importance in merger assessment as a separate competitive constraint

An alternative analytical framework?

- Buyer power as one of several cumulative factors
- Apply economic bargaining power principles to re-evaluate weight given to unhelpful factors
- Private labels as a constraint that exists independently of buyer power