



MERGER INVESTIGATIONS BY THE DANISH COMPETITION AND CONSUMER AUTHORITY

8 July 2021

Introduction

The Danish Competition and Consumer Authority has published an article on the economic analysis performed in merger investigations. The article outlines the considerations and assessment made by the Authority when deciding which economic methodology to apply and at which depth to carry out analyses during a merger investigation.

The main point of the article is that the Authority can request any data which is considered necessary and proportionate, however, only if this can be justified considering the burdens imposed on the merging parties and external sources to provide such data.

Economic methodology

The purposes of the economic methodology applied by the Authority is to decide the likely effects of mergers under certain conditions and assumptions.

The Authority has a vast number of different economic methodologies to choose from when investigating a merger. The methodologies span from simple initial market definitions and evaluation of HHI (the Herfindahl-Hirschman index, which is a measurement of market concentration to assess the market concentration and determine market competitiveness) during the screening phase, to elaborate full merger simulation applied to whole markets.

In the article, the Authority has set the utilized economic analytical methods used for merger investigations, including the quantitative standard techniques for analyzing unilateral effects of horizontal mergers. The Authority states that it has not yet had the chance to apply quantitative methods for analyzing coordinated effects and the effects of vertical and conglomerate mergers, since no merger filings have been submitted in this respect.

The Authority underlines that it always seeks to balance the benefits of performing deeper investigations by collecting more extensive data sets from external parties and performing sophisticated simulations, with the expected consumption of time and efforts spend on such deeper investigations. In addition to performing this assessment, the choice of methodology is naturally also based on the availability of data and assessed significance of a detailed analysis of the submitted merger filing.

In the period from 2017 to 2020 an average of 50 merger filings have been submitted to the Authority annually. Of these merger filings, only 5-10 mergers are subject to a full screening, while the remaining filings are subjected to the simplified procedure. Thus, extensive investigations and simulations are not that common in the Danish merger regime.

Primary data sources

As part of the economic methodology the Authority decides on the data which is needed to be obtained. This decision is based on a balance between the resources spend by the Authority on internal data analysis, and the expected gain in knowledge and understanding of the likely effect of the relevant mergers. The assessment is naturally performed on a case-by-case basis, however, is to a significant extent dependent on the sources already available.

The most utilized categories of data collected are (i) surveys amongst competitors, (ii) surveys amongst customers, (iii) accounting data and expected merger efficiencies, (iv) centralized data sources, (v) decentralized data sources. The article does not outline any new

measures of collecting data but underlines the Authority's intent to request only proportional data from the merging parties and external parties.

Our comments

The article outlines the vast abilities of the Danish Competition and Consumer Authority to decide on the process of investigating merger filings.

We have a vast experience in merger filings in Denmark, including by collaborating with the Danish Competition and Consumer Authority to secure a smooth merger filing process.

Moalem Weitemeyer has vast experience in assisting in merger filings in Denmark and in transactions involving merger filings across multiple jurisdictions. For further information please do not hesitate to reach out to us.

See the full article from the Danish Competition and Consumer Authority [here](#).

If you have any questions or require further information regarding any of the above, please do not hesitate to contact us:



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