

COMPETITION & SUSTAINABILITY INTRODUCTION

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THE QUESTIONS

- 1. Can competition stand in the way of sustainability?
 - (Too) intense horizontal competition reduces profits and this prevents investments in more sustainable production?
 - (Too) much buyer power downstream reduces margins upstream and this reduces... and prevents?
- 2. Can competition policy stand in the way of sustainability?
 - Competition Policy prevents horizontal cooperation?
 - Competition Policy does not counter buyer power?

QUESTION 1: OBSERVATIONS

- One is reminded of Arrow versus Schumpeter
 - Competition stimulates innovation (provided that capital market functions well and competition is “not too intense”)
- Competition is good when no market failure
 - What is the market failure hindering sustainability?
- Empirically, how much buyer power is there; is this increasing, and if so what is causing it
 - Existing results go in opposite directions

QUESTION 2: OBSERVATIONS

- Beneficial horizontal cooperation is hindered?
 - Interpretation of the Law (Art 101.3 TFEU)
 - Change in Dutch Law (cartels legal below 10%)
 - Guidance provided by competition authorities
 - Similar issues in other sectors, such as health care
- Buyer power is not tackled?
 - Buyer power not necessarily in interest of consumers
- How should competition policy look like when there are market failures?
 - Legislature, authority, or firms?
 - More research seems welcome

ARTICLE 101.3

- Agreements between firms that restrict competition are not prohibited if they:
 - 1. Contribute to improving the production or distribution of goods or to promoting technical or economic progress
 - 2. Allow consumers a fair share of the resulting benefits, and
 - 3. Do not include restrictions which are not indispensable to the attainment of these objectives;
 - 4. Do not afford the firms the possibility of eliminating all competition
- How to apply these conditions, and is the application (EU or NL level) changing over time?
 - Washing machines

CONCLUDING REMARK

- The general issue: competition and public interest
- Various general publications dealing with this
 - KVS 2009, SER 2010, WRR 2011
- Issue picked up also in the legal literature
 - M&M, Ottervanger, Loozen, Lavrijssen,
- Now time for deeper economic analysis
 - This workshop; Bunte