DISCUSSION OF
PAUL LUGARD'S
"INNOVATION IS KING; OR IS IT?"

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THIS DISCUSSION

- Short summary of Paul's short paper
- A clarifying question
- Some more general observations
- Conclusion

PAUL'S PAPER (WITH CARDWELL)

- Innovation is very important for welfare
- One would expect that, in the review of business transactions, there to be a lot of attention to: what is the effect on innovation?
- In the EU that is not the case; in EUMR given little attention, framework not very developed
- Suggestions for framework; brief discussion of cases
- Better framework in the US
- Need for reform in the EU

QUESTION ON CLASSIFICATION

- For EUMR, Paul distinguishes 3 categories of cases:
  - The transaction reduces innovation
    - Merging R&D labs, merging leader and follower
  - The transaction reduces competition and as a result of that might reduce innovation
    - Merger enhances market power, and…
  - The transaction produces dynamic efficiencies, hence, improves innovation, which may be sufficient to offset "static objections"
    - As discussed in paper by Reinhilde (verifiability issues)
    - Example from US: merger to monopoly (narrow market)

- The distinction between 1 and 2 not so clear to me
  - Also: ex post review of that US decision?

3 MORE GENERAL OBSERVATIONS

- The issue is broader than the EUMR
  - Paul mentions innovation has been important in 102 cases, but suggests less important in 101
  - However, health care sector NL; VWS <-> NMa
- How important is this dimension in total?
  - Compare to well functioning patent system
  - Well documented that uncertainty about patent validity (abuse by NPEs) limits innovation
    - Catherine Tucker; Patent trolls and Technology Diffusion
- Economic literature still small
  - Theory: Segal & Whinston: Comp Policy & Innovation
  - Empirical: Cassiman et al (paper Reinhilde)

CONCLUSION

- Broad agreement between Paul and Reinhilde

- Is there sufficient empirical evidence (EU vs US) and a sufficiently strong academic foundation to support a review or overhaul of the framework underlying the EUMR?