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?