

AAI INVITATIONAL SYMPOSIUM

■ Non-Price Effects of Mergers ■

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OVERVIEW

The American Antitrust Institute's 2016 Invitational Symposium, NON-PRICE EFFECTS AND MERGERS: A MULTIDISCIPLINARY PERSPECTIVE will examine the increasing importance of and emphasis on non-price dimensions of competition in merger analysis. This includes the effects of a merger on competition involving product quality, variety, service, innovation, etc. Experts from law, economics, and the business schools will convene for an afternoon symposium to offer insights on the nature and prospective role of non-price effects in merger analysis, challenges that they pose for antitrust enforcement, and suggested approaches for highlighting and integrating such analysis into enforcement decisions and competition policy.

The 2016 symposium will coincide with, and provide a forum for developing innovative, multi-disciplinary extensions from AAI's 17th Annual Conference LIVING WITH MARKET CONCENTRATION? NEW PERSPECTIVES ON MERGER POLICY on June 16, 2016. The theme of AAI's 2016 symposium is a timely outgrowth of three major factors. One is an expanding body of economic and management evidence relating to the adverse effects of past mergers. A second is the mounting challenge for antitrust enforcers in addressing the myriad price and non-price effects raised by some of the largest and complex deals in the history of the U.S. A third is that consideration of non-price effects is motivated by their importance as competitive strategic variables in numerous markets.

The U.S. Department of Justice and Federal Trade Commission 2010 HORIZONTAL MERGER GUIDELINES (GUIDELINES) make clear that the enforcement agencies will consider merger-related enhancements of market power that manifest in terms of adverse price effects *and* non-price terms and conditions, including reduced product quality, variety service or diminished innovation. Moreover, the guidelines indicate that the agencies will view non-price effects to be capable of coexisting with, or arising in the absence of price effects. Healthcare markets feature prominently in the non-price effects arena, as do markets in the food supply chain, and other important commodities and essential services.

The AAI Symposium will address non-price competition and effects in merger analysis from a multidisciplinary perspective. Non-price competition has long been emphasized within the business literatures and through research. Discussions of non-price strategies are found in marketing, strategic management and related areas. The economics discipline has also advanced substantive approaches and methodologies for evaluating non-price effects. A multidisciplinary approach to understanding non-price competition and the resulting effects for consumers is therefore both important and timely.

The symposium will feature two panels and a capstone roundtable discussion. The first panel will feature multidisciplinary perspectives from the economics, law, and the business schools. This panel will take up issues relating to strategic management and marketing decisions, integration decisions, R&D strategy, and product positioning as they pertain to variety, quality (including privacy concerns), service offerings, and innovation. The second panel will gather experts from the enforcement community experienced in a variety of merger cases involving non-price effects. They will debate the substantive and evidentiary issues involving non-price effects in merger analysis, with the goal of sketching a landscape against which non-price effects can gain traction in enforcement decision-making and inform competition policy more generally.

The symposium should be of special interest to those interested in mergers and their effects for competition and consumers, including scholars, consultants, and practitioners from antitrust, economics, and business.