The United States and the Future Development of Global Competition Policy

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Multiplicity and Its Challenges

- Multiplicity in the Past 50 Years: From a Few Laws in 1958 to >105 Today
- Three Recurring Issues
  - Where will we find superior norms?
  - How will we promote their acceptance?
  - What is the US role in all of this?
Overview

- Competition System Design: Concepts
- Convergence: Normative Propositions
- Model: Decentralization & Convergence
- Suggestions for Next Steps
- Caveat: Personal Views
Competition System Design

- Two Elements: Operating System of Institutions and Policy Applications
- Dominant Operating System: EU-Based
  - Public enforcement by administrative body
  - But see private rights/criminal enforcement
- Applications
  - Analysis (e.g., mergers) and management
Who Produces Applications?

- Multiple High Quality Sources
  - Analysis
    - E.g., EU (vertical mergers), US (leniency)
  - Management
    - Strategy: UK OFT and Canada
    - Adjudication: South Africa
    - Case organization: Netherlands
What Is a “Good” Application?

- General Criteria
  - Theory plus practice: e.g., Notification

- Concepts that:
  - Expand enforcement
  - Contract enforcement
  - Increase interoperability
  - Improve quality of public administration
Implications

- Ease of Entry Into Writing Many Applications
- Diversified Sources of Global Influence
- Importance of Processes for Achieving Convergence on Superior Norms
- Growing Significance of R&D and Institutional Innovation
Three Normative Propositions About Convergence

- Some Differences: Unavoidable, Useful
  - Experiment, assessment, adjustment
- Muris (2002): 3-Stage Convergence
  - Experiment, identify better methods, opt-in
  - Example: amnesty/leniency
- Trans-Atlantic Dialogue: Interoperability
  - Contacts among top agency officials, case handlers, and NGOs (e.g., academics)
FTC Program: Today and Tomorrow

- Greater Investments in Ideas
- More Effort in Devising Cross-Border Networks
- More Reflection on Own Experience
- More Outlays for Technical Assistance
- More Benchmarking with Other Systems
Investments in Ideas

- Systematic R&D Budget
- Concepts and Applied Work
- Role of Convenor
- Illustrations
  - FTC, To Promote Innovation (2003)
  - FTC and DOJ, Health Care (2004)
  - FTC, Behavioral Economics Workshop (ʼ07)
  - FTC, IO Conference (Fall 2008)
Ideas: Collaboration with Research Institutions

- Major North America Advantage
- Networks with Academic Centers and Think Tanks
- Illustration: Northwestern (Fall 2008)
Cross-Border Networks

- ICN, OECD, NAFTA, Bilaterals
- Deeper Knowledge of Systems
- Concepts and Operations
- Joint Case Development and Research
- Evaluation
- Focusing on How Institutional Design Affects Doctrine (e.g., DG Comp CET)
More Reflection on Own Experience

- Institutional Design: Periodic Reviews
- More Investment in Ex Post Evaluation
- Enhancement/Disclosure of Data Bases
- Assessment/Growth of Human Capital
More Outlays for Technical Assistance

- Appropriations
- SAFEWEB
  - Staff exchanges
- Resident Advisors
- Regional Collaboration
- Publication of Teaching Materials
Benchmarking Other Systems: The FTC at 100

- Aim: A Longer Term Perspective
- Major Focal Points
  - What is “good” agency performance?
  - How do we evaluate effects of activities?
  - How to improve cooperation with other institutions (public agencies and NGOs)?
  - How to achieve intellectual leadership?
- Extensive Consultations Abroad
Concluding Thoughts

- Influence by Persuasion
- Persuasion by Ideas and Experience
- Long-Term Capital Outlays
- The Mostly Friendly Rivalry