

## MaCCI Letter 2022

Dear reader,

The seventh Annual MaCCI Letter is ready. We report on a few research highlights and alert to forthcoming events.

2022 was a year full of MaCCI activities. We ran the MaCCI Annual Conference, the MaCCI Summer Institute, the MaCCI Career Day, and the MaCCI Law and Economics Conference as in-person events. In addition, we had our regular Mannheim Competition Policy Forum, our seminar series with practitioners as speakers, as a mix of in-person and virtual events, and organized several one-off events. A particular highlight was the one-week MaCCI Summer School on Platform Economics where 20 doctoral students and postdocs attended lectures and presented and discussed ongoing research; the summer school was done jointly with EPoS, the DFG-funded research centre in economics between Bonn and Mannheim – a big thanks to Julian Wright (National University of Singapore) for staying the whole week and giving three lectures. Some of the talks and lectures at different MaCCI events have been recorded and are made available on YouTube. Please subscribe to our channel if you want to stay informed, as we plan to occasionally add recordings.

2023 promises to be another very active year for MaCCI. For the 2023 MaCCI Annual Conference we had a record number of submissions, which on the one hand is great, but also means that we had to send out a record number of rejections. Apologies to those we could not include because of space constraints. A record number of economics consultancies will be present at the 2023 MaCCI Career Day. The MaCCI Law and Economics Conference will revolve around the topic of media funding. Several additional events are planned. Please check our website regularly to find an updated list of MaCCI activities.

Let me announce a few changes within MaCCI. At the end of 2022 Thomas Fetzner stepped down from his position as MaCCI Director because of his time-consuming job as vice-rector of the university; fortunately, he remains involved in MaCCI. We welcome Jens-Uwe Franck and Nicolas Schutz as new MaCCI Directors. We are also happy that Daniela Seeliger (Linklaters) has joined the MaCCI Advisory Board.

We are grateful for the continuing support from the other MaCCI Advisory Board Members. MaCCI receives financial support from the ZEW and the University of Mannheim through a variety of funding vehicles. In addition, the MaCCI Association, a charitable foundation, supports some MaCCI activities. This support is made possible through donations. In 2022, the MaCCI Association received donations from Compass Lexecon and CRA. In general, MaCCI accepts donations from charitable foundations, economics consultancies, and law firms.

If you are not yet on our mailing list, please drop a line to [macci@zew.de](mailto:macci@zew.de) to be included; similarly, if you change your address or want to be removed from the list.

My thanks to everybody in the MaCCI community who has contributed to the success of MaCCI. Hopefully, 2023 will have a lot of interesting MaCCI events. Please spread the word.

Greetings,

Martin Peitz on behalf of the MaCCI Board of Directors

## // Research Highlights in 2022

### **MORITZ RENNER ON CORPORATE ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) RESPONSIBILITY**

The 'ESG revolution' has triggered a regulatory tsunami, most recently with the proposed directive on corporate sustainability due diligence. Current legislative proposals by the EU, such as the Corporate Sustainability Reporting Directive (CSR2 Directive) and the Corporate Sustainability Due Diligence Directive (CSSD Directive) are moving further and further away from the guiding principle of corporate governance.

These new rules make transnational corporations instrumental in the enforcement of ESG regulation. Thus, they call into question the boundaries of corporate law and transgress the conflict-of-laws limits of the application of national law, but at the same time they raise the question of the functional limits of state regulation.

Moritz Renner shows that the effectiveness of the new European ESG rules will remain limited, because they offer few possibilities for private enforcement. At the same time, however, the new rules tend to favor large corporations and corporate groups, for whom it is easier to enforce higher ESG standards and bear the associated costs.

Renner, Moritz, „Menschenrechts- und umweltbezogene Unternehmensverantwortung zwischen Kapitalmarkt und Lieferkette“, Zeitschrift für Europäisches Privatrecht (ZEuP) 2022, 782-819

### **VOLKER NOCKE ON CONCENTRATION THRESHOLD FOR HORIZONTAL MERGERS**

Concentration measures play an important role in horizontal merger control. For instance, in the United States, the current Horizontal Merger Guidelines, issued in 2010 jointly by the Department of Justice and the Federal Trade Commission, adopt both safe harbors and anticompetitive presumptions based on the post-merger level and the merger-induced change in the Herfindahl-Hirschman Index (HHI). These concentration-based presumptions are a central factor in merger investigations and court proceedings. It is therefore surprising that the basis for these presumptions, in both form and level, remains rather unclear.

In their recent article in the American Economic Review, Nocke and Whinston examine these presumptions, focusing on a merger's unilateral price effects. They make two points. First, there is both a theoretical and an empirical basis for focusing only on the change in the HHI and not on its level in screening mergers for whether their unilateral effects will harm consumers. Second, the levels at which current presumptions are set are probably too lax, at least unless one is crediting (implausibly) large efficiency gains to the typical merger or a significant presumption that entry, repositioning, or other factors will prevent any anti-competitive harm of the typical merger.

In previous work, it has been shown that, in standard oligopoly settings, horizontal mergers harm consumers absent efficiencies. In their analysis, Nocke and Whinston therefore focus on the merger-induced synergy required to prevent consumer harm and relate the required level to measures of industry concentration.

In the theoretical part, Nocke and Whinston study the determinants of required synergies

in three workhorse models: the homogeneous-goods Cournot model and the CES and Multinomial Logit (MNL) models of differentiated-goods price competition. In all three models, the required synergies are independent of the level of the HHI when holding fixed the market shares of the merger partners but positively related to the merging firms' shares and, thereby, the change in the HHI. In the Cournot model, with marginal cost efficiencies of 3% and common levels of market demand elasticities, the threshold levels of the merger-induced change in the HHI, above which consumers are harmed, are much like those in the (very restrictive) 1968 US Guidelines—and well within the safe harbor provisions of the current Guidelines. While the no-consumer-harm threshold levels are somewhat larger under the CES/MNL models of price competition, they remain restrictive in those models as well.

In the empirical part of their paper, Nocke and Whinston examine the required synergies in the context of the US beer industry. Using the estimates of the (mixed MNL) demand system (and marginal costs) for leading beer brands in the 2017 Econometrica paper by Miller and Weinberg, and treating each local market separately, Nocke and Whinston compute for each hypothetical local merger the synergy required to prevent consumer harm; they then relate the required synergy to the level and change in the HHI in that market. The findings are in line with those from the theoretical models of the first part: the required synergy is increasing in the HHI change and largely independent of its level. For a 3% efficiency, a simple rule that would block a merger whenever the induced change in the HHI is above a threshold of about 150 (and approve it otherwise) would generate a level of consumer surplus close to the optimum—and would perform much better than the current (or the 1982) Guidelines' thresholds. For efficiencies below 5%, the more restrictive 1982 Guidelines' thresholds out-perform the current Guidelines' thresholds—and for efficiencies below 2 to 3%, the even more restrictive 1968 Guidelines' thresholds yield a further improvement.

Nocke, Volker and Michael D. Whinston (2022), Concentration Thresholds for Horizontal Mergers, *American Economic Review*, vol. 112(6), 1915-1948.

## TOBIAS WENZEL ON CONSUMER SALIENCE AND QUALITY PROVISION IN (UN)REGULATED PUBLIC SERVICE MARKETS

Public service markets are important segments of any economy. Yet, services such as healthcare and education are often inherently complex. This can lead consumers to misperceive quality and compare different alternatives according to more salient attributes that are easier to compare, such as the price of a product or service. To help consumers make better choices and to raise incentives to provide high quality, authorities such as the NHS in England have been keen on making service providers' performance information more accessible to the public. From an ex ante point of view, the impact of releasing such information is not clear-cut. Whereas consumers can better assess the quality of the service, resulting in more intense competitive pressure among providers, quality concerns can become more salient in consumers' decision process.

The article analyses the effects of publishing provider quality information when consumers' decision weight on service quality is positively affected by this information. To this end, a two-stage market game is developed: In the first stage, (costly) entry is determined by a zero-profit condition; in the second stage, providers compete to serve the demand. Markets without regulated prices (e.g., nursing homes) and markets with regulated prices (e.g., hospitals) are analysed.

In an unregulated market, releasing quality indicators indeed has the intended effect of raising service quality. However, higher quality implies larger investment in quality and, hence, reduces provider profitability, resulting in less market entry and higher prices for consumers. It is shown that more quality information improves consumer surplus only when consumers' initial decision weight is relatively low; the opposite is true when consumers put a high weight on service quality. Hence, publishing quality indicators may bring about overexposure to quality information and may hurt consumers. A similar pattern applies to social welfare. The negative effects of quality information exposure are more likely to occur when consumers are more heavily subsidised, because in such cases, providers mainly compete on quality. With regard to the welfare-maximising benchmarks, market entry and quality can be either insufficient or excessive depending on consumers' decision weight on quality. In contrast to previous contributions, entry can be insufficient and quality excessive if the decision weight on quality is sufficiently large. Interestingly, when the decision weight on quality is sufficiently large and the market sufficiently competitive, a more generous subsidy reduces consumer surplus.

Under regulated prices, there is also an inverted u-shaped relation between the publication of quality indicators and welfare. However, the scope for detrimental effects is much smaller because with exogenous prices consumers do not pay more when the decision weight on quality increases. In addition, when the price is optimally regulated, the regulator can fine-tune the price to either boost the positive effects or mitigate the adverse effects of more quality information. This is reflected in the observation that the optimally regulated price increases with consumers' decision weight on quality when it is initially low, whereas the price decreases when quality is already high. In this regard, regulatory agencies can coordinate their policies on price regulation and on the release of quality information.

Gu, Yinquan, Alexander Rasch and Tobias Wenzel (2022), Consumer salience and quality provision in (un)regulated public service markets, *Regional Science and Urban Economics*, 93, p.103754.

## // Selected MaCCI News in 2022

### NOVEMBER 2022: ELEVENTH MaCCI LAW AND ECONOMICS CONFERENCE

On 10 and 11 November 2022, the eleventh MaCCI Law and Economics Conference took place in Mannheim. The conference, organized by MaCCI Senior Member Jens-Uwe Franck and MaCCI Advisory Board Member Heike Schweitzer, focused on the twentieth anniversary of Regulation 1/2003 and raised the question of whether competition law procedure needs an upgrade.

### NOVEMBER 2022: NINTH ZEW/MACCI CONFERENCE ON ECONOMICS OF INNOVATION AND PATENTING

After a two-year COVID break, the 9th Conference on the Economics of Innovation and Patenting took place on 3 and 4 November at ZEW Mannheim. The conference covered a wide range of topics in the economics of innovation, digitalization, firm performance, technology transfer, and intellectual property rights. Over 80 participants attended 51 presentations in contributed sessions over two days. The first keynote presentation on Thursday from Dietmar Harhoff (Max Planck Institute for Innovation and Competition) covered financial market reactions to international patent disclosures. Next, Gaétan de Rassenfosse (EPFL École Polytechnique Fédérale de Lausanne) studied how to link products to patents in his keynote presentation. Aija Leiponen (Cornell University) discussed decentralized innovation platforms in the last keynote presentation.

### OCTOBER 2022: ECONOMIC EXPERTS ON PUBLIC PROCUREMENT MEET IN MANNHEIM FOR THE FOURTH TIME

On 27 and 28 October 2022, the fourth edition of the ZEW Workshop “Economics of Public Procurement” took place at the premises of ZEW Mannheim. This year’s edition was jointly organized with the University of Turku and the VATT Institute for Economic Research.

The event provides an annual stage for frontier research on the economic analysis of public procurement by bringing together in Mannheim empirical and theoretical economists active in this area with different backgrounds. Around 20 participants from Europe and Overseas gathered this time. The format consisted of nine presentations, followed by a discussion and Q&A with the audience. Topics ranged from the reverse auction design and the implications of contract renegotiation to the analysis of the role of buyers and competition policies.

### JULY 2022: MaCCI SUMMER SCHOOL ON PLATFORM ECONOMICS

MaCCI and the collaborative research centre between Bonn and Mannheim EPoS held a Summer School on Platform Economics for Ph.D. students and recent post-docs at Jugendstilhotel Trifels in Annweiler from Monday, July 18 to Friday, July 22, 2022. During this summer school, Julian Wright (National University of Singapore) and MaCCI member Martin Peitz presented recent theoretical advances in the economics of platforms. Each day, there was one morning lecture complemented by two student presentations with ensuing discussion. Tutoring sessions were offered in the afternoon.

### JUNE 2022: MaCCI SUMMER INSTITUTE IN AUSTRIA

This year's Summer Institute in Competition Policy was co-hosted with the University of Vienna and took place in Puchberg am Schneeberg in Lower Austria from June 6 - June 10. MaCCI researchers and invited scholars presented a mix of theoretical and empirical work in competition economics. This included recent work on consumer search, common ownership and horizontal mergers. The summer institute also provided ample opportunity to start and continue collaborative research projects.

*You can find the extensive list of MaCCI News in our Activity Report 2022 and on our website.*

## // Upcoming Events

» 05.05.2023

**MaCCI IO Day**

» 25.05.2023–26.05.2023

**CLEEN Conference 2023 organized by MaCCI**

» 19.06.2023–23.06.2023

**MaCCI Summer Institute**

» 23.11.2023–24.11.2023

**MaCCI Law & Economics Conference**

» 14.03.2024–15.03.2024

**MaCCI Annual Conference**



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