



14th EU-China Competition Week: Competition scrutiny in the financial services sector

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Why is it so difficult to apply antitrust rules to financial institutions?

Finance sector is unique	Antitrust Rules...	What Happened to Other Sectors?
It has its own specificities	target all sectors, although they are conceived to target traditional industries	Many sectors attempted to refer to sector-specific features to justify their conducts (e.g. high tech; construction; air transport; shipping; hospitals); they often failed
It is regulated	do not exclude regulated markets	Other regulated sectors have been the object of investigations/serious sanctions (e.g. utilities; pharmaceutical)
Financial institutions must cooperate	assume that competitors should only compete.	Competitors also need to cooperate in other sectors (e.g. construction; shipping)
Financial institutions do finance and are financed	do not mix up "suppliers" and "buyers"	Undertakings in other sectors also need to buy to/sell from one another (e.g. chemical industry)
There are only few precedents	Are broad in scope, focus on traders' practice	Other sectors escaped antitrust scrutiny for decades but were eventually caught (e.g. air transportation; environmental)

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Regulators v. Antitrust enforcers?

Financial Regulators

- Industry expert
- Financial stability
- Orderly efficiency
- User protection
- Ex-ante supervision
- Removal of authorization

Antitrust Enforcers

- Antitrust expert
- Fierce competition
- Market efficiency
- Consumer protection
- Ex-post supervision
- Enforcement and sanctions

Regulators v. Antitrust enforcers?

Cartel cases

- Double “notifications”, communication and standards
- Communication, reports to regulator: risk for leniency status
- Contradictory requirements (e.g., managing “custodians”)

Solution: protocol between regulator and antitrust agency

- Identify respective powers
- Transparency
- Cooperation; coordination
- Including antitrust concepts, principles or rules in financial supervisory rules
- Require antitrust compliance

Questions?



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