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Merger Control in Times of Financial Crisis: An Expedient Instrument to Heal the Fledgling Economy or an Object of Abuse?

34 Pages

Posted: 6 Jun 2015

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Date Written: June 5, 2015

Abstract

In times of crisis, there is reduced demand for consumer durables and the manufacturing industry tends to suffer from excess capacity. Due to liquidity problems, the banking sector too suffers critically. Generally, one observes an accelerated merger control activity across all the sectors, but banking and manufacturing, tend to be most active in terms of merger and acquisitions during times of economic and financial crisis. The present article discusses the substantive and procedural issues in merger control and how the competition authorities respond to crisis by showing flexibility in merger control. The present article presents a critical analysis of treatment of efficiencies and the failing firm defence, with examples of case laws from both sides of the Atlantic. The article concludes by contemplating how merger control can be a constructive instrument to drive the economy towards better macroeconomic fundamentals, without itself being a subject of abuse in the hands of opportunistic enterprises.

Keywords: Merger control in US, EU and UK, financial crisis, economic crisis, efficiency defense, failing firm defence**JEL Classification:** K21, L4[Suggested Citation](#) >[Show Contact Information](#) >[Download This Paper \(Delivery.cfm/SSRN_ID2614861_code2110843.pdf?abstractid=2614861&mirid=1\)](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2614861_code2110843.pdf?abstractid=2614861&mirid=1)[Open PDF in Browser \(Delivery.cfm/SSRN_ID2614861_code2110843.pdf?abstractid=2614861&mirid=1&type=2\)](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2614861_code2110843.pdf?abstractid=2614861&mirid=1&type=2)

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