



Our Practice

NERA's European Competition Policy Practice provides rigorous analysis of the full range of economic questions that arise in the context of European competition policy. Our experts have provided economic advice to clients in matters before the European Commission and before the national competition authorities of Member States across the EU. NERA has advised on many of the highest profile and most complex cases across Europe.

We work with our clients and their other professional advisers at all stages of a case, from the initial consideration of what competition matters may arise through to the preparation of a full economic report, supported by conceptual analysis and empirical evidence.

Key Areas of Expertise

NERA provides economic advice in the following contexts:

Mergers

The appointment of a Chief Economist at DG Competition and the introduction of the Significant Impediment to Effective Competition (SIEC) test have highlighted the importance of rigorous economic evidence during merger inquiries. NERA provides economic analysis of the key issues that typically arise in merger investigations, including non-coordinated and coordinated effects, merger simulation, vertical foreclosure, conglomerate effects, barriers to entry, failing firm issues, and efficiency defences. NERA advises at all stages of the merger process, from pre-announcement merger planning through Phase 1 and, if necessary, Phase 2 of the EC merger review process. NERA also provides economic advice in national merger control proceedings across the EU.

Abuse of Dominance

Article 82 of the EC Treaty prohibits abuse of a dominant position, and this is mirrored in various national competition regimes. NERA provides economic advice on market definition and market power, which are key ingredients in the assessment of dominance. In addition, NERA experts provide economic analysis, grounded in the facts of the relevant industry, on the full range of possible abuses, including excessive pricing, predatory pricing, price discrimination, margin squeeze, refusal to supply, discounts and rebates, and tying and bundling. NERA experts have also actively contributed to the current debate on the reform of Article 82, and a move towards a more "economics-effects-based" approach.

Sector Enquiries

The European Commission undertakes sector enquiries into markets about which they have concerns regarding competition issues. Various national regulators, including the Office of Fair Trading and Competition Commission in the UK, undertake similar in-depth market investigations. NERA has extensive experience in advising clients on the economic issues that arise in these matters at national and European levels, across a wide range of industries and markets.

Cartel Investigations

Article 81 of the EC Treaty, and similar national rules, prohibit price-fixing agreements between firms. In cases where price fixing allegations are at issue, NERA provides economic analysis of price setting in the relevant markets to assess the economic significance of the alleged price fixing, compared to the relevant counterfactual of the prices that would have occurred but for the cartel. NERA undertakes this work both in the context of the primary competition proceedings and in follow-on damages cases.

At A Glance NERA European Competition Policy

Agreements

Article 81(1) of the EC Treaty prohibits all agreements between firms that prevent, restrict, or distort competition. However, under Article 81(3) such agreements can potentially be exempted if the agreement can be shown to lead to efficiency benefits. NERA provides economic analysis of business agreements to assess whether they are likely to be found materially to restrict competition, and if so, whether they are instrumental in creating efficiency benefits that may be passed on to consumers. This work is undertaken in the context of business agreements and joint ventures.

State Aid

NERA provides economic analysis to governments and corporations of questions that arise in state aid cases, in particular whether the aid in question is liable to materially distort competition in relevant markets. NERA's experts apply the market economy investor principle (MEIP), and determine whether the aid in question leads to a distortion of competition in the relevant market. NERA also provides economic analysis on the application of the various guidelines (e.g., on admissible R&D subsidies) by the European Commission.

The Global Antitrust Weekly

NERA's Global Antitrust Weekly summarises news about current cases in antitrust and competition policy in Europe, the Americas, Asia, Australia and Oceania, and Africa.

By providing a summary of antitrust news stories from around the world, the Global Antitrust Weekly helps keep readers up to date with global antitrust and competition policy developments.

To sign up for this email newsletter, please register with gaw@nera.com.

About NERA

NERA Economic Consulting is an international firm of economists who understand how markets work. We provide economic analysis and advice to corporations, governments, law firms, regulatory agencies, trade associations, and international agencies. Our global team of more than 600 professionals operates in over 20 offices across North and South America, Europe, and Asia Pacific.

NERA provides practical economic advice related to highly complex business and legal issues arising from competition, regulation, public policy, strategy, finance, and litigation. Our more than 45 years of experience creating strategies, studies, reports, expert testimony, and policy recommendations reflects our specialisation in industrial and financial economics. Because of our commitment to deliver unbiased findings, we are widely recognised for our independence. Our clients come to us expecting integrity and the unvarnished truth.

NERA Economic Consulting (www.nera.com), founded in 1961 as National Economic Research Associates, is a unit of the Oliver Wyman Group, an MMC company.

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