



Competition Economics

Cross-sector specialist Competition advice

kpmg.com/uk/competition-economics

Introduction

Our European Competition Economics practice

KPMG has expanded its Competition Economics offering across Europe by welcoming Brussels and Paris-based economic consultancy MAPP to the KPMG network, which now includes over 50 competition specialists based in London, Brussels, Paris and Madrid.

Our experts advise clients on all aspects of competition proceedings before the European Commission, national competition authorities, regulators and the courts including:

- Mergers, acquisitions and joint ventures
- Anti-competitive conduct
- Anti-trust damages estimation and litigation support
- Market and sector inquiries
- State aid

A number of our senior economists and academic associates have held positions within the UK, Spanish and EU competition authorities and have a deep understanding of how competition authorities across the world operate.

A unique offering

The needs of our clients and the evolution of markets and economic techniques are reflected in the way we approach our work.

Issues at the centre of competition cases are increasingly market-specific and less amenable to the application of standard toolkits. This requires strong theoretical economics that can assess issues from **first principles**, starting from actual market reality.

- Our economists have **strong academic qualifications** and we work closely with top academics on cases. In every engagement we draw on the **deep sector expertise** of KPMG colleagues across the network.

Firms use more and more data, and do so in increasingly complex ways. This means that effective economic advice needs to rely on

analytical insights from large and sensitive datasets.

- We work with data scientists to harness powerful insights from ever-increasing amounts of data, all within KPMG's state-of-the-art and secure infrastructure.

Competition economics is often one part of a broader puzzle. We can provide a complete and coherent solution to our clients, bringing complementary skills from the wider KPMG network.

- This includes, for example, expertise in regulatory finance, profitability analysis and data science.

Mergers, acquisitions and joint ventures

KPMG can help clients engage effectively with competition authorities during merger investigations to maximise the chances of obtaining a successful outcome. Our team has significant experience of applying economic techniques to merger investigations before competition authorities in Europe, France, Spain, the UK, and other jurisdictions worldwide.



We can help clients to conduct an early risk

assessment and to anticipate the likely areas of challenge from competition authorities, so that deals can be designed with clients' risk appetite in mind.



We can help clients build an economic story

and to be on the front foot with the competition authorities, increasing the chances of a smooth and effective engagement with the authorities.



We support our clients at all stages of

the review processes by engaging with the economists at the authorities, providing strategic advice and in general dealing with technical economic issues that may arise over the course of these complex regulatory processes.

Mergers, acquisitions and joint ventures



Selected case studies

Our economists have been involved in many landmark merger cases, including numerous Phase II cases at the European Commission and cases before national competition authorities in France, Spain, the UK and other jurisdictions.



Smiths Detection / Morpho Detection merger

KPMG advised Smiths Detection in relation to its acquisition of Morpho Detection. The merger required approval in a number of jurisdictions including the US and Europe. The transaction was cleared subject to divestments in Europe and the US.

KPMG's work included data-intensive economic analyses to assess the proximity of competition in various product markets and the potential concerns arising from the transaction.



GE / Alstom merger

Alstom required the advice of competition economists regarding the acquisition of its energy business by GE.

Our economists advised Alstom through Phase II of the process, addressing the European Commission's concerns regarding potential unilateral effects in the market for heavy-duty gas turbines. As part of the advice, our economists performed a quantitative analysis of the likelihood of a post-merger price increase in the context of a bidding market.



Lafarge / Holcim merger

Lafarge and Holcim, two global cement manufacturers, required expert economic advice regarding their intention to undertake the biggest tie-up in the cement industry.

As a part of providing advice to Lafarge, our economists undertook competition assessments on hundreds of local markets using a range of quantitative techniques and developed data-based insights to prepare compelling economic submissions. The operation was cleared by the European Commission in Phase 1, subject to remedies. In the context of this merger, our economists also contributed to the economic analyses that were submitted to the competition authorities of Brazil, India, Morocco and Serbia.



Extremely quickly Nicola and his team developed their understanding of the key parties involved in this acquisition. They asked the difficult questions challenging and testing [our] thinking. Combined with their ability to grasp the key issues and articulate them in a meaningful way, Nicola and his team helped to build a robust case. Proof of this is demonstrated by the successful stage 1 outcome.

[A merger client]

Anticompetitive Conduct

Competition authorities throughout Europe increasingly use economic analysis as part of investigations into anticompetitive conduct. Economic advice is often key to engaging effectively with competition authorities during their assessment of anticompetitive conduct.



We can help clients understand

whether their business practices are anti-competitive, assessing their effects of contractual clauses or certain pricing and non-pricing practices that may raise concerns.



We can provide technical economic

analysis and help clients put forward an evidence base to make their case before competition authorities, challenging the authorities' analyses as appropriate.



We can support clients in private action cases

related to antitrust matters, either helping to put forward a case or defending against allegations of anticompetitive conduct.

Anticompetitive Conduct



Selected case studies

Our economists have provided economic advice in relation to the assessment of anticompetitive conduct by the European Commission, the CMA in the UK, the French Competition Authority and the Spanish CNMC, amongst others.



European Commission – Google Shopping Decision compliance

In June 2017 the European Commission concluded that Google had abused a dominant position in online search, and levied a €2.4 billion fine on Google. The Commission's Decision required Google to bring its abusive conduct to an end, in accordance with a set of principles set out in the Commission's Decision.

KPMG is providing the Commission with expert Financial and Economic advice and analysis in supporting the Commission's assessment and monitoring of the measures subsequently put in place by Google, and its assessment of whether these measures comply with the Decision's principles.



A manufacturer of cathode ray tubes – Alleged cartel

Our economists advised our client in the context of the European Commission investigation of an alleged cartel in the cathode ray tubes manufacturing sector. The practices at stake involved, among others, the exchange of individual information regarding sales to specific customers.

Our economists analysed a range of issues including the credibility of the information that was exchanged, and the extent to which it could have been used strategically by the firms involved.



Ouibus – Alleged abuse of dominance

Our economists advised Ouibus, a subsidiary of SNCF which provides intercity coach transportation services across Europe, during an investigation by the French Competition Authority into an alleged abuse of dominance.

Our work included an analysis of Ouibus' pricing policy, business strategy and profitability to assess the claim that Ouibus had engaged in a strategy to eliminate competitors. Our results were instrumental in showing that the facts of the case did not support this claim, and the case concluded with the French Competition Authority dismissing the complaint, and rejecting the request for interim measures.



I was impressed by your ability to convey complex concepts to the client and your commitment to high levels of service, notwithstanding the very demanding timescales we were working to. You delivered exactly what you promised.

[A law firm]

Litigation



Courts throughout Europe increasingly use economic analysis in litigation and disputes. As part of an integrated advisory firm, KPMG Economics can provide quality economic advice together with a range of econometrics, data analytics, forensic accounting, dispute advisory, valuation and the sector specific knowledge needed in these matters.



We can help claimants or defendants

conduct an early risk assessment to assess the potential strength of the case and help anticipate the likely areas of challenge.



We can help clients to quantify the damages

using techniques to calculate what would have happened but for the disputed conduct.



We can support clients in private action cases,

whether related to antitrust matters or other types of disputes, helping to either put forward a case or defend against allegations of disputed conduct.

Litigation



Selected case studies

Our economists have provided economic evidence for a number of litigation matters before courts and tribunals across the world.



Ball bearings damages litigation at the CAT

Nicola Mazzarotto acted as an expert witness for a defendant in the context of a follow-on antitrust damages claim. This claim was brought before the Competition Appeal Tribunal following a decision by the European Commission. Our work involved using theoretical and econometric techniques to estimate any damages suffered by the claimant and drafting the expert report detailing these findings. The case settled in April 2018.



Large telecom operator in France

Our competition economists advised a large telecom operator on a range of antitrust matters relating to alleged abuses of dominance, including margin squeeze, price discrimination, exclusivity practices and other antitrust issues.

Our work included support during the French Competition Authorities investigations and the provision of expert advice to support our client's position in relation to follow-on damage claims. We prepared Expert Witness Reports and provided expert testimony in numerous proceedings before the national courts in Paris.



Insurance industry in Spain

Our team prepared a series of Rebuttal Expert Witness Reports on behalf of a major European reinsurer, in response to damage claims made in the context of price coordination infringements in Spain. Our services included designing the economic defense strategy and analysing market data to assess the size of the alleged price increase and quantifying which part of the claimed damages were supported by industry data. Our work also included providing expert testimony in front of national courts in Spain.



Their work was very effective both in written form, in identifying weaknesses in other economists' positions and, crucially, in testimony. KPMG's work was a key pillar of our case and very much improved our chances of success in this case. We would very much work with KPMG again and would recommend their work to others. In this case they were pitted against top economists in north America and in our view very much came out on top.

[A law firm]

Market/sector inquiries



In-depth market studies and investigations are frequently conducted by the CMA and Financial Conduct Authority in the UK, and are also undertaken by the European Commission. Economic advice is often key to engaging effectively with competition or regulatory authorities during their market/sector inquiries.



We can help clients to anticipate

the authorities' likely concerns and the impact on their business, helping to manage the risks from a market/sector inquiry.



We can help clients to present clear and

compelling economic evidence to support their arguments and to help shape the authorities' analysis and conclusions.



We can scrutinise the authorities' technical analysis,

in particular quantitative analysis which is often based on large economic datasets, helping clients to rebut inappropriate or unreliable conclusions.

Market/sector inquiries



Selected case studies

KPMG has advised leading parties to market inquiries across many different sectors such as energy, healthcare, motor insurance, banking, audit, credit cards, asset management, investment platforms, wholesale insurance, workplace pension and annuities.



Private Healthcare Market Investigation

KPMG advised a leading private healthcare provider throughout the Competition and Markets Authority's (CMA) investigation into private healthcare provision in the UK. Our economists provided economic analysis and support on all aspects of the case, including pivotal support during our client's appeal of the CMA's decision to the Competition Appeal Tribunal (CAT), that resulted in the CAT quashing the CMA's divestment decision and remitting the case back to the CMA.



UK's Energy Market Investigation

KPMG advised one of the largest six energy suppliers through the Competition and Market Authority's (CMA) market investigation into the supply of energy in Great Britain. Our work has included support responding to CMA quantitative and qualitative analysis as well as CMA information requests, support in preparation for CMA hearings, and scrutinising the CMA's analysis in three 'data rooms'.



Financial Conduct Authority market study into Credit Cards

KPMG advised a leading credit card provider through the Financial Conduct Authority's market study into credit card provision in the UK. We supported the client in its response to the regulator's information / data requests and consultation papers on methodologies, and performed a range of economic analyses including economic profitability.



The economist team are efficient, organised and hard working. They are very personable and capable of quickly forming of a constructive, friendly rapport with the client. The team have responded quickly to queries and are keen to provide input. Final outputs have been completed to a high standard.

[A law firm]

State Aid



KPMG combines economic, financial and strategic advice, drawing on our global presence and deep sector expertise, to support clients in the context of State aid applications and investigations. We provide advice on the Market Economy Operator Principle, helping to design appropriate measures consistent with State aid rules and determine whether any proposed measures may give rise to concerns in relation to distortions to trade and competition.



We can help to conduct an early risk assessment, to anticipate the likely areas of challenge from the European Commission, helping to design the measure in a way that is consistent with the aid's objectives.



We can help to assess whether an intervention can be viewed by the European Commission as State aid and suggest terms compatible with State aid rules to help all stakeholders be on the front foot with the European Commission.



We can provide technical economic and financial analysis to prepare an evidence base for the case before the European Commission, including challenging alternative viewpoints as appropriate.

State Aid



Selected case studies

KPMG has provided economic advice in relation to the assessment of State aid on a number of government sponsored measures, across a range of sectors and member states.



French electricity market

Our economists provided economic advice to a consortium of large electro-intensive customers in France, in relation to the applicability of State Aid rules.

Our reports were shared by our client and discussed with French and European regulators in the context of their discussions regarding future developments in the electricity market.



Hinkley Point C (HPC) – Approval by European Commission

KPMG advised the UK's Department of Energy and Climate Change (DECC) in relation to the new nuclear power plant at HPC. We assisted DECC in the context of its State aid application to the European Commission, providing advice and analysis on all of the key aspects of the application as well as an economic assessment of the potential distortions to trade and competition.



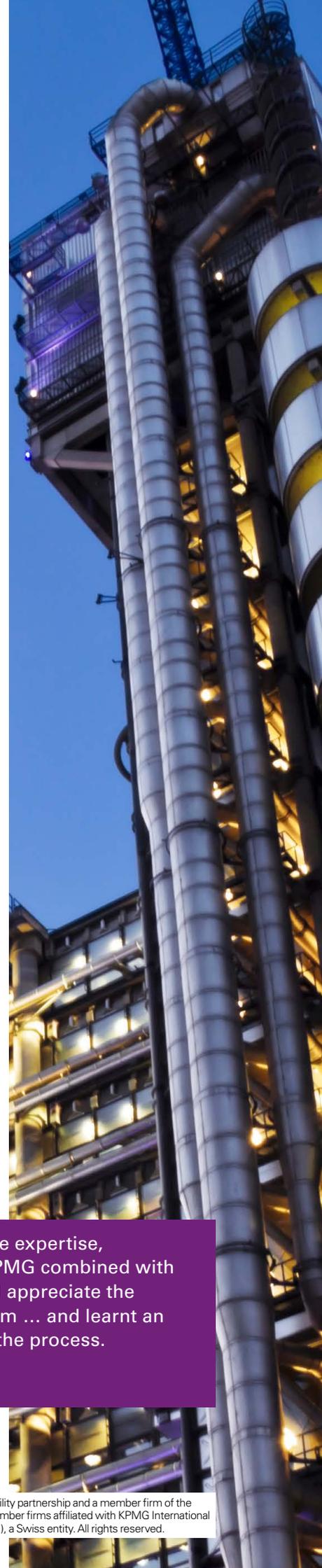
British Business Bank (BBB) – Approval by European Commission

KPMG advised BBB on its key State aid submissions, valuations and due diligence. As part of our work, we analysed and benchmarked all BBB's investments, developing extensive evidence to support its submission to the European Commission. We provided advice on how to structure and deploy investments in a way that was compatible with State aid rules not only to BBB, but also to Green Investment Bank and the UK's Shareholder Executive.



I felt very reassured by the expertise, knowledge and insight KPMG combined with [the law firm] offered us. I appreciate the responsiveness of the team ... and learnt an awful lot myself through the process.

[A client]



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