

Communications Department

Phone: +49 621 181-1016

pressestelle@uni-mannheim.de

<http://www.uni-mannheim.de/en>

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Press Release

EU Merger Reform Leaves Key Gaps, Economists Warn

Economists warn that there are gaps in the EU's draft Merger Guidelines which could lead to systematic errors in assessing mergers. The researchers point to the importance of assessing future cost and demand conditions – when tariffs or supply-chain disruptions increase the costs for European firms, for example, or when AI-driven productivity gains lower their costs. The draft guidelines, as written, do not address how to include such shifts in a merger assessment. The details are published by the EPoS Economic Research Center at the Universities of Bonn and Mannheim in the discussion paper “Merger Control Amid Market Evolutions and Shocks: What the EU Merger Guidelines Should Say” and the theory paper “Merger Control in a Changing World”. Both are authored by Volker Nocke, Martin Peitz, and Nicolas Schutz, EPoS Economic Research Center.

The European Commission has undertaken its broadest review of merger policy in 20 years. It published the new draft Merger Guidelines on 30 April 2026 and started a public consultation on them, with the final version expected before the end of 2026. Though not legally binding, the resulting guidelines will determine how the Commission assesses future cases in practice.

“The new Draft Merger Guidelines are a genuine advance,” says Volker Nocke. “The Commission explicitly incorporates resilience and geopolitical risk as relevant factors in merger assessment. But some important issues are incomplete, notably, guidance on how to assess the cost and demand shifts that reshape the competitive landscape. These gaps could lead to systematic errors: the approval of mergers that should be blocked, and vice versa. Finalizing the guidelines is an opportunity to correct that.”

Assessing cost increases caused by tariffs or supply disruptions

Recent theoretical results by the authors show that an adverse industry-wide cost shift — the kind caused by tariffs or supply-chain disruptions — raises market concentration but reduces margins and thereby lowers the likelihood that a horizontal merger of two competitors will harm consumers. Tightening merger policy in anticipation of such a shift is therefore the wrong response. Instead, the combination of two large competitors, for example in car manufacturing, is more likely to be justified in the face of adverse cost or demand shifts.

Assessing AI-driven productivity gains and falling costs

The opposite holds when conditions improve. An industry-wide productivity gain or quality

improvement driven, for instance, by the diffusion of AI, widens margins and increases the harm a merger can inflict. This calls for a stricter merger policy in industries that are expected to strongly benefit from AI adoption, even as concentration falls.

The uncertainty dilemma

However, future developments are typically hard to predict with certainty and require an assessment of the underlying uncertainty, an issue on which the current draft guidelines are completely silent. “When the direction or magnitude of the shift is itself uncertain, our results show that the appropriate policy response depends on the objective that the competition authority pursues,” explains Nicolas Schutz. “A more conservative policy that is concerned primarily with the worst developments, tends to call for a more lenient merger policy. By contrast, if the authority values both the upside of favorable shifts and the downside of adverse shifts alike, then greater uncertainty calls for stricter merger control.”

“In today’s geo-political and trade context, EU merger decisions have to account for these dimensions,” concludes Martin Peitz. “The new Merger Guidelines must address them within a coherent framework. Our work lays the groundwork.”

The presented discussion paper is a publication without peer review of the Collaborative Research Center Transregio 224 EPoS. Access the full discussion papers [here](#) and [here](#).

Link to the [list of all discussion papers of the CRC](#)

Authors

Volker Nocke, Professor of Economics, University of Mannheim and deputy spokesperson of EPoS Economic Research Center

Martin Peitz, Professor of Economics, University of Mannheim and member of EPoS Economic Research Center

Nicolas Schutz, Professor of Economics, University of Mannheim and member of EPoS Economic Research Center

Contact:

econNEWSnetwork

Sonja Heer

Tel. + 49 (0) 40 82244284

Sonja.Heer@econ-news.de

Prof. Volker Nocke

University of Mannheim

volker.nocke@gmail.com