



Bureau of Economics

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Disclosures and Accountability: Helping Economic Research Impact Policy

Welcome Comments by Aviv Nevo
17th FTC Annual Microeconomic Conference
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Thank you. My name is Aviv Nevo and I am the Director of the Bureau of Economics here at the Federal Trade Commission. I would like to welcome you to the 17th Annual Microeconomics Conference hosted by the Federal Trade Commission. Personally, it is a true pleasure to be here. I was on a panel at the first conference in 2008, which was held in the New Jersey Ave location (that probably few here remember) and on the scientific committee of the next three. So, it is a true pleasure to see this conference be as successful as it has been.

For those of you who are from outside the FTC, I want to say a few words about our agency and the Bureau of Economics (BE). As you probably know, the FTC is an independent agency, and it has two primary enforcement missions: consumer protection and competition.

BE supports these two missions. We have just under 120 FTEs, with roughly 95 of them PhD economists. That makes us one of the larger groups of microeconomic economists in the Federal Government, and we do a lot for the agency. We support the competition and consumer enforcement missions; we provide economic analysis in support of investigations and litigation; and we apply in many cases cutting-edge economic analyses, both theoretical and empirical, to these cases.

I have been very fortunate to have the opportunity to work with the BE folks, and the FTC staff more broadly, over the past two years. At some point, hopefully many years from now, when I look back at my career, serving as BE Director will surely be a highlight. For young, and maybe not so young, folks in the audience, if the opportunity to serve at the FTC (or the DOJ) ever presents itself, my advice is to take it. This is a truly unique experience.

The last few years have been a particularly exciting time at the FTC. We have a lot of interesting things going on, and BE is right in the middle of the action. One of the many ways that BE contributes to the Agency is by bringing knowledge from the academic community into our work. Interactions with the academic community -- like this conference that combines cutting-edge academic research with discussions of real-world policy problems -- is key to achieving this goal.

You might not realize it, but your research can have a real impact on both policy, law enforcement decisions and litigation outcomes. I would like to take a few minutes to talk about a couple of issues that stand in the way of research achieving its full impact potential. Let me stress that the views I am about to express are my own and do not necessarily reflect the views of the Commission, any individual Commissioner or the FTC staff.

First, we value an open exchange of ideas between the staff and experts outside the agency. This enables the staff to learn about new ideas and perspectives, hone their professional skills, and receive feedback on their work. However, such a dialogue requires transparency with respect to relationships with interested parties so that there is no question whether undisclosed relationships may have exerted influence on the opinions expressed.

The profession has come a long way with disclosure requirements set by, for example, the AEA and NBER. But we still have a way to go. I have been to many conferences where presenters do not offer disclosures or make some vague statements such as a reference to a web site that the audience cannot see.

In part, this is due to lack of clear standards: at times folks do not know what is expected in oral presentations. For this reason, I would like to share with you today that BE has a new disclosure policy that we will enforce from now on in our conferences and seminars, and hope that the rest of the profession follows it as well. The policy is a modified version of the AEA journal disclosure policy. For example, we clarify that center funding needs to be disclosed, as well funding received by a spouse. We also clarify that there is no expiration date for disclosure of matters where the presenter (or a co-author) was directly involved. For example, if someone worked on the Microsoft conduct case, they are expected to disclose that if they talk about the case. Finally, we clarify how disclosure is expected to happen in talks or panels, as opposed to written paper submissions.

We will be posting the new policy very soon, so please keep an eye out for it. It is a bit too late to ask everyone to follow the exact letter of the policy in this conference, although I hope that you follow the spirit of it. A good rule of thumb: if in doubt, please disclose and if you have nothing to disclose, please say so.

A second issue I would like to touch on is a bit more delicate. It involves our credibility as a profession and how it is being eroded by questionable testimony. As you probably know, the FTC has been very busy with litigation. We litigated two mergers earlier this Fall – a supermarket merger litigated in Oregon and a handbag merger litigated in NY – and we are in the middle of litigation in Houston. Unfortunately, some of the arguments that I heard from defendants' economic experts during these cases and more generally, made me cringe. Let me briefly mention a couple of examples I saw during my time at the FTC.

In a recent decision the judge was quite critical of the defendants' IO expert. At one point saying that the statistics cited by the defendants were "deficient and ultimately misleading" and at another point saying that the expert "was unable to adequately explain the discrepancies in the reseller data" and therefore the Court found the testimony "unreliable." This language is not uncommon in decisions, but the specific details in this case are uncommon and frankly quite outrageous. For example, at one point the expert presented a table claiming to show that a product doubled over the span of a few years. It turns out that a key outlet was missing from the data in the first year, and that its "introduction", which was presented as "entry", was a major driver of the increase, which totally undermined the point.

This was not the only example: the lack of rigor was systematic and disturbing. This was especially troubling since the expert criticized the FTC's expert analysis as "not up to standard" and that the evidence "is not at the level of rigor that I would expect." I disagree with this assessment. The industry in question does not have data like, for example, claims data in health care or scanner data in consumer

packed goods, but the FTC team and its expert did an excellent job using the available quantitative and qualitative evidence. If the case was not on appeal, I would have no problem standing here in front of you and proudly presenting their work.

Sadly, this was not the worst of it. In another example, an expert testified that when considering pricing, a joint owner of two brands would not “actually want to get too involved in trying to coordinate them.” This was not made as an empirical observation, or nuanced in any specific way, but rather as a general theoretical statement. In my opinion, this is an extreme view that undermines a basic economic principle underpinning horizontal merger enforcement: namely that incentives, pricing and otherwise, change under joint ownership. As an editor or a referee, I would have found this type of statement, without any specificity or nuance, quite troubling.

You might be tempted to just brush this off. Folks say crazy stuff all the time. That would be a mistake. Statements like this matter for two reasons. First, the above examples did not impact the ultimate decision. But the outcome could have been different. The court could have been confused and could have created bad case law.

Second, the credibility of the expert has taken a hit, but this sort of repeated behavior from numerous actors hurts us all. We are slowly, but surely, losing credibility as a profession.

What can we do about this? Individually, we should be more responsible. Here is a simple rule of thumb. If you are not willing to stand up in front of a room full of economists to repeat and defend what you said in court, then maybe you should not say it in the first place.

Collectively, we can also do more as a profession. It is time to call out questionable testimony when we hear it. What happens in the courtroom should not stay there. The testimony is public, and we should call out folks on the outrageous claims that they make. Our profession does not have a process to equivalent to removing someone from the bar, but hopefully professional reputation matters.

As you can tell, I am quite passionate about the topic, and I could therefore go on for a while. But let's move on to the conference. We have an excellent program, and I can credibly say so because I had nothing to do with putting it together. I want to thank those that did put it together.

This conference would not be possible without a long list of people working behind the scenes. I would like to thank Steve Berry and the Yale Tobin Center for co-sponsoring the event. Thanks to the conference organizers: Viola Chen, Sam Kleiner and Stephanie Aaron from BE and to the scientific committee: Allan Collard-Wexler from Duke, Zach Cooper from Yale, and my Penn colleague Pinar Yildirim. Special thanks to the admin team here in BE: Maria Villaflor, Kevin Richardson, Constance Herasingh and Tammy John, and the research analysts and statisticians helping with registration: Aidan Wiemer, Jules Wathieu, Chris Carman, Jen Snyder, Dhanya Srikanth, Chris Harris. Last but not least, the FTC media team and event planning staff, and the numerous BE economists who helped screen the great submissions and worked with the scientific committee.