Labour markets: a blind spot for competition authorities?

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Abstract: A recent topic of debate among economists and policymakers is whether labour markets should be of interest to competition authorities. High-profile cases involving non-poaching agreements have recently made the headlines in the USA, and labour markets were a key aspect of criticisms aimed at recent merger decisions in Europe. In parallel, academic research has provided new findings to fuel this debate. In this article, we shed light on the key elements of this discussion and explain how economic analysis can contribute to it.

Keywords: competition in labour markets, industrial policy, empirical analysis of concentration, merger control, antitrust enforcement.

1. Introduction

The role of competition policy in society has recently come under scrutiny. The standard competition policy framework focuses on consumer welfare and product markets. However, a range of proposals have been made to expand the scope of competition policy to cover broader policy objectives, including labour market outcomes. For instance, some merger decisions have seen politicians deviate from decisions by national competition authorities due to concerns about labour market outcomes.

In this paper, we review evidence on labour market competition, and the current and potential tools employed to intervene in this market, as well as the economic circumstances in which such interventions may be warranted.

The current standard view in competition policy enforcement is that competition policy should focus on the defence of consumer outcomes in the product and service markets. Its role is to ensure that prices, quantities sold and quality are as close as possible to the competitive benchmark. Under a strict application of such standards, ensuring fair wages, high employment and good working conditions is not part of the objectives of competition authorities, in particular when there are already a number of tools in place, such as national wage-setting rules.

Yet, as we explain further in section 2, recent empirical evidence suggests that labour markets may be concentrated on the demand side. These
findings coincide with concerns that competitive forces in labour markets may not be strong enough.\textsuperscript{4}

Interest by academic economists might have been fuelled by recent labour market antitrust cases in the USA. For instance, a high-profile class action lawsuit was brought by the Department of Justice (‘DoJ’) in 2010, following reports that eight hi-tech firms had allegedly entered into non-poaching agreements. In section 3, we discuss non-poaching and non-compete agreements, two of the main concerns of competition authorities relating to labour markets. We also discuss the potential rationale for banning or limiting these practices.

In section 4, we turn to merger control, and discuss recent proposals to incorporate labour market considerations in this process. Mergers are currently assessed in light of their impact on consumer welfare, that is if increased supply concentration is expected to outweigh potential efficiency benefits. However, mergers may also reduce competition between firms in the labour market, and reduce workers’ outside options and bargaining power. We discuss how labour markets could be taken into account in the current merger control framework.

Finally, we discuss how the incorporation of labour markets in competition policy highlights tensions between the narrow application of competition law and broader policy considerations, such as industrial policy. For instance, governments are often concerned that the efficiencies or remedies brought about by a merger may translate into short-term lay-offs. Given this demand for a broader competition assessment, and assuming the availability of tools to analyse labour markets, there is a question about whether competition authorities’ remit should be extended. However, moving towards a broader role for competition policy may also create new problems, such as uncertainty and cost for firms or burden to public authorities.

2. \textbf{How strong is competition in labour markets?}

In this section, we provide some insights on the specificities of labour markets. We begin by presenting some high-level features of competition in the labour market, explaining that, from a microeconomic perspective, labour market outcomes can be described as the result of a bargaining process between workers and employers. We then present the results of economic studies that undertake an empirical analysis of competition in the labour market.

2.1. \textbf{The microeconomic underpinnings of competition in the labour market}

In any market, the relationship between supply and demand determines the price, output level and quality of the product sold. In the labour market, individual workers and individual firms often coordinate through a bargaining process. The relative bargaining position of the different parties in a negotiation depends on their outside options. In the context of wage bargaining, the outside options available to workers are other potential employers that may offer higher wages or better working conditions. On the other side of the market, employers have the outside option of hiring other workers who may be willing to accept lower wages. Figure 1 depicts factors affecting these outside options.

At the market level, these outside options in the bargaining problem shape supply and demand, and consequently wages and employment levels. In perfectly competitive labour markets there are many workers on the supply side and many firms on the demand side, and neither side has strong relative bargaining power. In this setting (without other complications), wages are competitive and workers can expect a wage that represents their incremental value creation.

When one of the two sides of the market gains stronger bargaining power, wages deviate from a competitive equilibrium and the ‘stronger’ side of the market extracts a ‘rent’ from the other. In other words, when workers have a stronger bargaining power than firms, wages tend to be inflated relative to a competitive benchmark. By contrast, when firms have relatively strong bargaining power, wages tend to be deflated, which is referred to as ‘monopsony power’ and has recently been in the spotlight of economic research.

2.2. Empirical evidence of demand-side concentration in the labour market

The analysis of competition in the labour market remained theoretical until recently. The availability of large datasets gave researchers the ability to investigate the empirical side of the question.

In Azar, Marinescu, Steinbaum and Taska (2018), the authors assess demand concentration in the USA for a wide range of industries using data from a company that offers job market analytics by collecting data from approximately 40,000 websites. Using this data, Azar et al. calculate (demand-side) concentration in almost 8,000 labour markets. The relevant 'skills' market is defined using six-digit Standard Occupational Classification ('SOC') codes. Six-digit SOC codes classify jobs into 867 occupations, for instance ‘Chief Executives’ and ‘Fundraising Managers’. The geographic market is defined using commuting zones ('CZs') developed by the United States Department of Agriculture ('USDA'). Marinescu and Rathelot (2017) find that 81% of

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5 They determine the elasticity of supply and demand, which represents the sensitivity of each side of the market to a change in wages. Another unique aspect of the labour market is that, contrary to other markets, it usually does not clear, meaning that not all workers who want a job can get one.

6 More precisely, workers receive compensation that is equal to the value of their marginal output.


8 The company is called Burning Glass Technologies. According to the authors, this database includes around 85% of online job openings in the USA and is therefore representative of a broad cross-section of industries and occupations.
applications on CareerBuilder.com, a large vacancy posting website in the USA, are within USDA CZs, suggesting this is a reasonable geographic definition.\footnote{I. Marinescu and R. Rathelot, ‘Mismatch Unemployment and the Geography of Job Search’ (2018) 10(3) American Economic Journal: Macroeconomics 42–70.}

The findings of Azar et al. (2018) are shown in Figure 2. They found an average buyer-side Herfindahl–Hirschman Index (‘HHI’) of 3,953, which is above the 2,500 threshold set out by the US DoJ and the Federal Trade Commission to define ‘high concentration’ in the products market.\footnote{We note, however, that the threshold for potentially anticompetitive concentration on the demand side of the market is not as well defined and might differ from what is typically used on the supply side.} In Europe, the European Commission guidelines state that a product market HHI above 2,000 is likely to give rise to competition concerns.\footnote{See European Union, ‘Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2004/C 31/03)’ (2004).}

The figure estimated by Azar et al. is equivalent to an average of 2.5 symmetric firms per recruiting market and 54% of markets being highly concentrated. The authors also show that concentration leads to lower wages in certain geographic areas.\footnote{More precisely, the authors show that wages are 17% lower among the 25% most concentrated markets than in the 25% least concentrated.}

\begin{figure}[ht]
\centering
\includegraphics[width=\textwidth]{figure2.png}
\caption{Labour market concentration in the USA}
\end{figure}


\textit{Note:} Reproduced with authors’ permission. The map from the original paper features a colour scale from red to green.

Benmelech, Bergman and Kim (2018) offer further evidence of the impact of labour market concentration on wages. The authors use US Census data and show that, all else being equal, productivity gains are shared less with workers in more concentrated labour markets.\footnote{E. Benmelech, N. Bergman and H. Kim, ‘Strong employers and weak employees: How does employer concentration affect wages?’ (2018), No. w24307, National Bureau of Economic Research.}

The findings described in this section indicate that labour markets could be geographically limited and fairly concentrated on the demand side. These empirical findings coincide with an interest of competition authorities in labour markets from an antitrust perspective.
3. Antitrust enforcement in the labour market

In this section, we turn to the question of policy intervention and discuss practices akin to collusion and abuses of dominant positions through non-poaching agreements and non-compete clauses. We present the current framework used to account for these in antitrust enforcement as well as some economic analysis of such practices.

3.1. Non-poaching agreements

Non-poaching agreements recently came under scrutiny, in particular in the USA where the FTC and DoJ issued guidance for HR professionals.\(^{14}\)

Non-poaching agreements refer to actions taken by two or more firms to coordinate their hiring, and pay and benefits policies. Workers are unaware of these agreements and are therefore not in a position to negotiate any additional compensation owed to them. The aim of the agreements is to reduce the firms’ expenditure on personnel, thereby potentially increasing their profits. By agreeing not to compete for hiring, the firms can be seen as entering into an agreement akin to horizontal market allocation, but on the demand side.\(^{15}\) The FTC and DoJ guidance states that:\(^{16}\)

An individual likely is breaking the antitrust laws if he or she:

- agrees with individual(s) at another company about employee salary or other terms of compensation, either at a specific level or within a range (so-called wage-fixing agreements), or
- agrees with individual(s) at another company to refuse to solicit or hire that other company’s employees (so-called ‘no poaching’ agreements).

A notable case of a non-poaching agreement was a class action lawsuit brought by the DoJ in 2010, following reports that eight hi-tech firms in the USA had allegedly entered into ‘no cold call’ agreements for technical professionals, such as software and hardware engineers.\(^{17}\) Cold calls have the direct effect of giving workers bargaining power to renegotiate their current contracts, or to switch to another position with potentially better pay. They also have the indirect effect of revealing to workers their worth in the labour market, which could then be used in negotiations. In the 2010 case, the ability of the software and hardware engineers to claim higher wages might have been weakened by the alleged non-poaching agreement. The case was settled in 2015, following a $415m payment to the workers in the class action.\(^{18}\)

More recently, in April 2018, the DoJ settled a civil antitrust lawsuit which alleged that the two main US rail equipment suppliers, Knorr-Bremse and Westinghouse Air Brake Technologies had agreed not to hire each other’s workers without each other’s prior approval.\(^{19}\) The DoJ argued that not only were


\(^{15}\) Horizontal market allocation occurs when firms agree not to compete with each other in certain markets – for example, by allocating geographic areas, types of products or types of customers.


\(^{17}\) Department of Justice, ‘Case: 1:10-cv-01629’ (2010). ‘Cold calling’ refers to the practice of reaching out to professionals who did not apply for a position.


\(^{19}\) Department of Justice, ‘Case 1:18-cv-00747’ (2018).
the two firms each other’s top competitors in the rail equipment market, but that they also competed:²⁰

to attract, hire, and retain skilled employees by offering attractive salaries, benefits, training, advancement opportunities, and other favorable terms of employment.

One could argue that non-poaching agreements allow firms to reduce their costs by reducing their personnel expenditure, and that this cost reduction may be passed on to end-consumers. A similar argument is often developed in the context of product ‘group purchasing’ agreements, where firms coordinate their purchase of an input in order to decrease their input costs and trigger efficiencies (e.g., increasing returns to scale from larger purchases). Group purchasing, which can also be harmful when it implies monopsony power, can be seen as a way for retailers to offset market power from large producers.

However, non-poaching agreements differ from group input purchasing in an important way: when firms enter into a non-poaching agreement, it does not mean that they agree to purchase labour as a group to offset supplier market power. Instead, firms secretly agree to shift the balance in the bargaining process, by agreeing not to compete for certain employees – somewhat similar to a market allocation mechanism. By contrast, group input purchasing aims to secure better terms of supply than what might be offered by a relatively strong seller (e.g. a globally recognized manufacturing brand), which might generate efficiencies. As such, group input purchasing may contribute to lower prices as a result of efficiencies of scale or scope even absent market power, while non-poaching agreements are not considered efficient and lead to harm irrespective of their effect on wage levels.

The workers’ lack of awareness about these agreements is in contrast to other forms of agreement in the labour market, such as non-compete clauses, which we discuss below.

3.2. Non-compete clauses

Non-compete clauses require workers to commit to not working for the competitor of their former employer for a certain period of time following the end of their contract. These clauses are often perceived as harming workers by reducing their bargaining power and are currently an important discussion in the 2020 Democratic Party presidential primaries in the USA.²¹

In terms of competition economics, these clauses are close to exclusive dealing agreements, whereby a firm commits to trade exclusively with a supplier for a certain period. In the subsection below, we present recent cases of non-compete clauses and the efficiency rationale offered for them.

a. The economics of non-compete clauses

Similar to exclusive dealing, there are good reasons to have non-compete clauses in a contract. They are often used to solve the ‘hold-up’ problem, whereby, for example, a worker may walk away with trade secrets. Indeed, employers need to undertake human capital investment to increase the productivity of their employees. Such investment can relate to sharing trade secrets, client lists or training. Once such an investment is made, the possession

of valuable company know-how or improved general skills will make the worker more valuable to their employer and other companies alike. If an employee threatens to leave or even to divulge trade secrets, the employer risks losing its investment. The employer may try to keep the employee by offering better contract terms, but at this stage the employee is in a strong bargaining position and can demand a wage increase as high as the value of the investment.

An employer often anticipates this hold-up before entering into an employment contract. If an employer fears expropriation of the gains of its human capital investment, it may put in place a contractual provision such as a non-compete agreement to ensure the ex post return of its investment. In this case, a non-compete clause increases an employer’s incentive to share trade secrets and provide costly training that increases its workers’ and the firm’s productivity, thereby generating efficiencies for the whole economy.

b. Abuse of a dominant position in the design of non-compete clauses

Given this hold-up problem and the efficiencies arising from non-compete clauses when it comes to companies in specialized trades, one might expect agreements limiting labour market competition to be mostly applied to high-profile or specialized workers. Economic research suggests that they are in much more common use. For example, a 2015 paper estimated that 12% of workers in the USA earning less than $40,000 a year were bound by non-compete agreements. A large number of non-compete clauses have been reported in sectors where little human capital investment is required, such as fast-food companies. Less than half of workers who have signed a non-compete agreement report possessing company trade secrets. In other words, questions have been raised as to whether non-compete clauses are always used to solve the hold-up problem or whether they can be used by dominant firms to decrease the bargaining power of employees and suppress wages.

Indeed, by signing non-compete agreements, workers have fewer outside options to renegotiate wages with their employer, which they get compensated for. However, rather than protect their initial investment, employers may use non-compete clauses to prevent employees from moving to competitors and thereby suppressing wages. In such cases, lengthy non-compete clauses can be regarded similarly to exclusive dealing agreements in product markets, which can be a solution for the hold-up problem, but also a way to leverage market power.

In line with this hypothesis, in one-third of cases in the USA, non-compete clauses are presented to workers after they have accepted the job offer and come with no compensation. Analysis of a survey of workers suggests that employers strategically wait to present these non-compete clauses when the employee has little negotiation leverage, such as their first day of work. Waiting

23 D. Jamieson, ‘Jimmy John’s Makes Low-Wage Workers Sign “Oppressive” Noncompete Agreements’ (Huffington Post, 13 October 2014), available at: https://www.huffingtonpost.co.uk/entry/jimmy-johns-non-compete_n_5978180?n18n=true&guce_referer=ahR0cHM8Ly9jZ25zZW50LnhaG9vLmNvbS8&guce_referer_sig=AQAAAFDxFDaR4I1HX5DoQzkWFaX1OXcWSvBuG9gH4tijO3eVzs2P6o3STC1MW4vEQQq3PPXMbbobNqgsYVDw69ywP3LYn4NxsI-7mSWnO-dzRX4CrEEnVBlzNlpadzJUK66kAqk2MbArusT11XLwpoVQJasCnGjJe9Rq604kU6wZ2guccounte_r=2.
until the employee has already turned down other job offers will increase the
change that a worker signs the non-compete agreement and decrease the
likelihood that they will try to negotiate the details of the contract.

Aware of the risk of exploitation by dominant firms, labour law does
protect workers from abusive non-compete clauses. In both France and
Germany, the practice of presenting non-compete clauses after the employment
contract has been signed is subject to strict conditions. In general, non-compete
clauses must be limited in duration and to the activities covered, as well as being
subject to monetary compensation. In the USA, the state of California has
historically banned all non-compete agreements and only allows for very few
exceptions to that rule.

Antitrust law has also been used to deal with abusive non-compete
clauses. Indeed, litigations relating to abuse of dominance have been brought
forward in various industries, such as sports leagues. At the European level, the
European Commission has fined the International Skating Union (‘ISU’) for
breaching Article 101 TFEU. The ISU was imposing severe penalties on athletes
taking part in competitions it did not authorize. This exclusionary conduct is close
to a non-compete agreement that kept ice-skaters from joining competing events
to those organized by the ISU.27

In this section we have explored how antitrust enforcement already
intervenes in relation to labour market outcomes when it is within its remit. However, in
the context of merger control, current competition policy enforcement does not include
assessments of the impact of a transaction on labour market concentration.

4. Merger control in the labour market and the role of
competition policy

The role of merger control in shaping labour market outcomes has raised political
interest at both the national level and more widely. Currently, merger
assessment focuses on the likely impact on consumer welfare. Therefore, a
merger may be allowed on the grounds that it is likely to have a positive effect
on consumer welfare, even though it would lead to a significant increase in the
concentration of demand for a certain type of labour in a geographic area.

Despite high public scrutiny, competition authorities’ role in assessing
labour markets seems to have been limited. In this section, we detail some
proposals to account for labour markets in the standard merger assessment
framework and also highlight some challenges to this process.

4.1. The current merger assessment framework

As indicated above, the standard EU merger assessment framework considers
the effect of a given transaction on concentration on the product (or service)
market, and ultimately on consumer welfare. Where relevant, vertical
relationships are also considered in order to evaluate their impact on
downstream and upstream product market outcomes. Both immediate, short-
term effects (such as efficiency gains from synergies) and longer-term effects
(such as innovation) are analysed and examined in the assessment. Figure 3
summarizes the typical steps in merger control.

For each step in the merger control framework, the assessment tools would need to be adapted to the specifics of the labour market to allow for the application of the competition policy approach outlined above. This point is discussed further below in the context of the labour market definition.

4.2. A worked example: labour market definition

Academics have adapted established tools from merger control in product markets to assess labour markets. However, the nature of labour markets means that it is challenging to put these tools into practice.28

What are the difficulties involved in defining the relevant market for the purpose of assessing the effect of a merger on labour markets? We provide an example that focuses on market definition, which, as shown in Figure 3, is one of the key steps involved in merger control.

The European Commission defines the relevant product market as:29

[…] all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products’ characteristics, their prices and their intended use.

The relevant geographic market is defined as:30

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30 Ibid, para 8.
the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous.

When determining which definition of the product market is relevant to a merger assessment, the key question is which products, sold by which firms, are substitutable with the products produced by the two merging firms. When thinking about the labour market, it must be remembered that the switch is from supply concentration to demand concentration, as well as from the product market to the labour market.

The question is therefore which jobs are sufficiently substitutable that the workers of the merging entities might be willing and able to switch between them. This question raises its own challenges relative to the standard issue of which products are substitutable from the point of view of the customer. The key factors that need to be considered are as follows.

- **Skills**: if two jobs require very different skills, an individual is unlikely to be able to successfully apply for both. Defining skills is not straightforward, but at a minimum the job title, description, and sector should be taken into account. Someone who has worked only as an economics teacher is unlikely to be qualified to teach physics, and is also unlikely to have acquired the relevant skills to be an academic economist.

- **The overall price paid for labour**: this is not limited to wages, but also includes benefits such as pensions and parental leave. Jobs may also differ along other dimensions, such as job security, working hours, and broader working conditions. Assessing the overall effective price paid by an employer to a worker is a complex task, and an assessment based purely on wages risks ignoring important aspects of the market.

- **Workers’ preferences on non-price characteristics**: labour markets are matching markets in which:
  - the buyer (employer) has preferences for certain worker characteristics, for instance in terms of skills or geographic location. This is similar to product markets, where the buyer has preferences for certain brands and product characteristics;
  - the seller (worker) has preferences about job characteristics—for instance, they may prefer a large employer over a small one.

### 4.3. The SSNDW test

In practice, a standard way of defining the relevant product market is by using the hypothetical monopolist test, which looks at the effect of a ‘small but significant non-transitory increase in price’ (‘SSNIP’). This test is based on the idea that the relevant market is the narrowest market for which it would be profitable for a hypothetical monopolist to increase prices by 5%. The test does not consider the effect of a change in non-price factors (such as quality or brand), but it does take these factors into account by capturing them in the degree of

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31 In product markets, firms represent the supply side of the market and consumers the demand side. By contrast, in labour markets, firms demand labour, and labour is supplied by workers.


33 We refer here to characteristics that are directly relevant for the position being offered. Employers may be prohibited from selecting employees based on some characteristics. For example under the Equality Act 2010 in the UK, an employer cannot discriminate against a potential employee based on certain ‘protected characteristics’ such as age, disability, sex or religion.
switching between products: if there is no alternative product of a similar quality, a 5% price increase is unlikely to lead to extensive consumer switching.

Naidu, Posner and Weyl (2018) propose a labour market equivalent: the ‘small but significant and non-transitory decrease in wages’ (‘SSNDW’) test. It is effectively a hypothetical monopsonist test (i.e., one that considers a unique employer in the market), and is set out in Figure 4 below.34

![SSNDW test diagram]

Figure 4 SSNDW test
Source: Oxera.

Consider the example of a nurse who practices geriatric nursing at a public hospital in the south of Brussels. It is possible that s/he would be willing to move to any hospital in Brussels, as long as it offers geriatric care. When conducting a hypothetical monopsonist test, we could begin by asking whether, if the nurse in our example was employed by the only private hospital in south Brussels, the hospital would have an incentive to cut his/her wage. The answer might be no, because the nurse might easily be able to move to a public hospital instead. We could then broaden the market to consider all hospitals in the south of Brussels, and then again to consider all hospitals in Brussels, or even all hospitals and nursing homes in Brussels. At this stage, we may find that the hypothetical monopsonist that owned all of these institutions would indeed have a profit incentive to cut wages. This is because the nurse in question may have trouble moving to another specialized nursing position (say, as a surgical nurse), and may be unwilling to move or take an alternative, less skilled, job. The example is illustrated in Figure 5 below.

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However, there is a limitation in the extent to which the SSND test is an appropriate extension of the SSNIP test. One problem is that the test is based on a 5% cut in wages which could be extended to monetary benefits, rather than broader intangible benefits such as working hours or flexible time.\textsuperscript{35} Not factoring in the non-monetary ‘price of labour’ is likely to lead to an incorrect and inconsistent market definition, as a 5% change in monetary remuneration may correspond to a 5% change in the overall benefit package in some contexts, and be only a small part of the benefit package in other cases. However, note that similar challenges are sometimes present in product markets – for example, in cases where an ‘implicit’ price is being paid for a ‘free’ good, such as data.

Similarly, the competitive assessment part of merger analysis can be adapted to fit the labour market context. Concepts used in product market merger control such as price mark-ups and diversion ratios can be adapted in a parallel fashion to measure a firm’s ability to lower wages (pre-existing market power) and a transaction’s effect on concentration in the labour market (market power post-merger).

5. Labouring for a better outcome

The remit of competition policy is to promote competition across markets for the benefit of consumers. However, this remit sometimes involves a trade-off between competition and other considerations not directly related to competition. New considerations, such as protection of vulnerable consumers or the environment, are increasingly emerging in competition and regulatory spheres.\textsuperscript{36}

If competition authorities are protecting those consumers who are in particularly vulnerable situations, this could suggest a similar role could be taken in protecting workers. We can frame the specific question of the extent to which competition policy should take into account labour market outcomes within the

\textsuperscript{35} For instance, 88% of respondents to a Harvard Business Review survey indicated that, when choosing between a high-paying job and a lower-paying one with better benefits, more flexible working hours would be given some or heavy consideration. See K. Jones, ‘The most desirable employee benefits’, (Harvard Business Review, 15 February 2017), available at: https://hbr.org/2017/02/the-most-desirable-employee-benefits (accessed 15 November 2019).

\textsuperscript{36} For instance, in the UK, the Competition and Markets Authority has become increasingly concerned with ex ante regulation aimed at protecting vulnerable consumers and ensuring product fairness. Similarly, the Financial Conduct Authority developed a ‘Treating Customers Fairly’ framework.
context of a wider debate on the relationship between industrial policy and competition policy.

In a landmark ruling, the European Commission recently blocked the Siemens–Alstom merger. This decision triggered strong responses from policymakers, especially in France and Germany. Specifically, they expressed concern over competition within the EU not being the only aim that should be taken into account by competition authorities, and the importance of ensuring European companies (‘European champions’) can compete with international giants, mostly from China and the USA. The French, German and Polish finance ministers have led a call to align competition and industrial policies.37

Often, one of the arguments developed by the supporters of the industrial policy view is that the creation of European champions will prevent jobs from relocating abroad. This view is based on the assumption that jobs are available in a fixed amount in the global economy and that what is good for one part of the world is bad for another. A corollary to this view is that without industrial policy, national wages will inevitably drop.

Dominant firms in a product market produce less (to increase prices) and therefore hire fewer workers. If a firm is also dominant in the labour market, workers might end up with low wages too. Paradoxically, the creation of European champions might therefore lead to the low employment and low wages equilibrium that political authorities are concerned about.

By excluding labour markets from merger decisions, European competition authorities leave the employment question to political authorities, which might in turn lead to the creation of dominant firms that harm competition in both product and labour markets.

If the impact of decisions on workers should be taken into account in merger control, there is a question around who should analyse these effects. Some academics argue that the toolbox of competition authorities could be extended. However, it might also add to the cost, uncertainty and burden associated with mergers, both for firms and for public authorities.

6. Conclusion

Recent public discourse has featured a range of proposals for reforming competition law to account for broader societal outcomes, in particular labour markets. This call has been heavily influenced by highly publicized merger cases, but also by recent economic evidence on the extent of competition in the labour market.

On the antitrust front, this harm has been at the heart of some recent cases in the USA, which could have been spurred by increasing political interest and recent empirical findings on labour market competition. In Europe, it is not yet clear whether competition authorities will investigate such cases on a stand-alone basis or whether labour market concerns will continue to be secondary to product market investigations.

While competition assessment tools seem to be adaptable to labour markets, competition authorities have not shown signs that these will be taken into account in merger control. The role of competition authorities and the

standard economic framework used in phase II mergers, where political authorities have over-ruled competition authorities, seems to have been limited.

Nevertheless, some academics have suggested extending the traditional merger control framework to account for labour markets, despite some challenges. If such a framework were to be adopted, it is not yet clear whether the remit of competition authorities should be extended or whether another authority should conduct such analysis.