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Towards Cross-Border Enforcement Toolkit

Presentation


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Towards Cross-Border Enforcement Toolkit



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Underlying work (selected)

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Competitive Harm Crossing Borders: Regulatory Gaps And A Way Forward

Marek Martyniszyn [Author Notes](#)

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Abstract

This article analyses the current regulatory framework governing transnational restrictive business practices. It identifies key gaps that provide room for anticompetitive practices to flourish, causing cross-border transfer of wealth, typically from less affluent states. The economic harm caused by cross-border anticompetitive conduct is significant; international cartels alone caused overcharges exceeding \$1.5 trillion in the period 1990–2016. This article offers a series of pragmatic policy recommendations that could narrow existing regulatory gaps. The proposals require no international negotiations and can be implemented domestically. They call for enabling of more assertive and robust extraterritorial enforcement of domestic competition laws and facilitation of positive externalities in that context.

Issue Section: [Article](#)



What do we know?

1: cross-border violations cause more harm to domestic economy:

- outflow / extraction of wealth– it is not just an internal distribution issue
- international cartels overcharge more than domestic cartels

2: markets often do not stop at country's borders
– hence, cross-border cases are only more likely

3: the scope for reliance on enforcement by others is limited and decreasing

4: many competition agencies have positive experiences of dealing with cross-border violations

For example: Brazil (vitamins, LCD, compressors), China (LCD), Kenya (paints), Mexico (lysine), South Africa (ANSAC)

5: this requires **extraterritorial enforcement** of domestic law– perfectly feasible, but not easy – presenting often specific, additional challenges

This project

- aims to help agencies overcome various challenges in a cost-effective manner – by identifying and sharing good practices and tested solutions – to be shared as **Cross-Border Enforcement Toolkit**
- it builds on earlier work, also in the UNCTAD's framework– relying on contributions of numerous developing countries– appreciating their specific position

Moving forward

- these challenges often come to play at different stages of enforcement – hence, we need to think about **a chain of enforcement**, not only its separate parts
- various agencies, from different parts of the world and of different size, are already involved
- **only through joint engagement obstacles can be identified and feasible, workable solutions found**
- **Cross-Border Enforcement Toolkit is to share such solutions**
- agencies and colleagues interested and willing to benefit directly are encouraged to get in contact



Thank you

Questions / comments are also invited
by email at m.martyniszyn@qub.ac.uk

Access my work (in PDFs) freely at:
<http://go.qub.ac.uk/outputs>

