





京都大学
KYOTO UNIVERSITY

On the ‘Pro-Growth’ Merger Policy

Sangyun Lee

Postdoctoral Fellow, Kyoto University 

Ph.D., Korea University 

Hong Kong, May 16, 2025

Panel 3 – “Competition and Industrial Policy: Reimagining the Field”

Competition Law, Innovation and Growth: Connecting the Dots

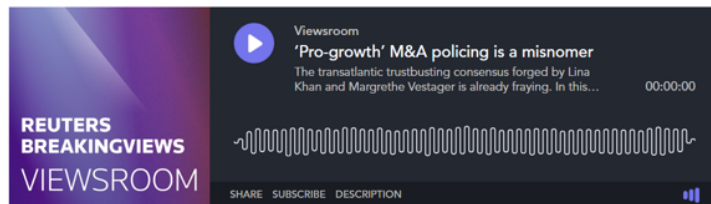
I thank Masako Wakui (Kyoto University) for her insights and our discussions on this issue. This work is part of my research as an International Research Fellow of the Japan Society for the Promotion of Science (JSPS).

“Pro-Growth Merger Policy”



‘Pro-growth’ M&A policing is a misnomer: podcast

LONDON/NEW YORK, March 27(Reuters Breakingviews) - Follow on [Apple](#) or [Spotify](#). Listen on the [Reuters app](#). Read the episode [transcript](#).



Summary

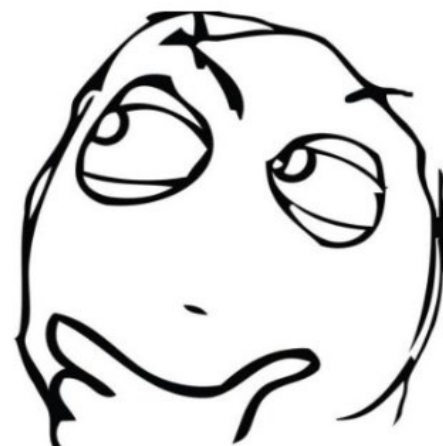
LONDON/NEW YORK, March 27(Reuters Breakingviews) - The transatlantic trust by Lina Khan and Margrethe Vestager is already fraying. In this week's Viewsroom, two columns discuss if it will lead to mergers involving national champions such as remedy some economic ills.

Follow [@JMAGuilford](#) and [@aimeedonnellan](#) on X.

“... the main kind of landmark deals that she blocked, the big one was **Siemens-Alstom**. That was supposed to be a train merger. And the idea was that this would help **European industrial champions** compete with, you know, massive **Chinese and North American behemoths**. Be able to hold their own on the global **scale**. So this was a deal that was incredibly popular in the political capitals in **Paris and Berlin**, and which was not **very popular in the Brussels** antitrust department. So it’s just that was a moment where this stuff kind of came to a head. There was a lot of **political outcry** about Brussels holding Europe back, about stopping Europe from doing industrial policy ... Reading between the lines, I think most people know what they mean by that, that’s **if we have another Siemens-Alstom, don’t block it.**”

Some Questions on the “Pro-Growth Merger Policy”

1. **Why** is it on the agenda now?
2. **What** does it essentially propose?
3. How **convincing** is the proposal?
4. Is it also **relevant** for non-EU jurisdictions?
5. **Should** non-EU jurisdictions embrace it?



SUMMARY

Why now?

- Catching up with the US & China;
Voices pushing for less competition, more state intervention.
- Large firms and large MSs push louder;
But opposition remains.

What is proposed?

- More consolidation to fix fragmentation,
via market definitions, innovation defence, investment pledges, etc.
- In essence: clearing anti-competitive, but possibly beneficial, deals.

Convincing?

- Is fragmentation due to too few mergers?
- Broader market definition, or just an erroneous definition?
- Loosening (pro-growth) or tightening (killer-acquisition) the filter?
- Can the filter still function properly?

Relevant for others?

- Institutional isomorphism: Spillover is likely.
- But not necessarily justified.

Should it be relevant?

- ✗ The 'market fragmentation' justification doesn't apply
(except for encouraging regional, cross-border M&As).
- ✗ The two-tier filter won't work in non-EU economies.
- ✗ Filtering failure is more likely in mono-centric governance.

Q1. Why is it on the agenda now?

- Commission's **Siemens/Alstom** prohibition decision (Feb 6, 2019), followed by some backlash (from politicians), such as:



Bundesministerium
für Wirtschaft
und Energie



• Franco-German [Manifesto](#) (Feb 2019):

“Competition rules ... need to be revised to be able to adequately take into account industrial policy considerations in order to enable European **companies to successfully compete on the world stage...**”; “Updating current merger guidelines to take greater account of competition at the global level, potential future competition and the time frame when it comes to looking ahead to the development of competition ...”



Germany's *Miba/Zollern* (Aug 2019):

Acquisition in the engine bearings market, which was initially blocked by the BKartA, but later won BMWi's ministerial approval, for its “overriding public interest” (Sec 42, [GWB](#)).

What the applicant claimed, and accepted, was basically a “**China defence**” which had been already considered but not accepted by the BKartA (See, [Konrad](#), Mar 29, 2019)



Dismissal of then-Autorité chief de Silva, amid the *TF1/M6* controversy (2021):

“... among the reasons for her departure was her unwillingness to fall in line with Macron's economic agenda — namely its embrace of corporate champions that, the theory goes, will help France and the European Union **better compete against the United States and China on the world stage.**” – [Politico](#) (Oct 13, 2021)




Von der Leyen (Oct 2019 – present)'s commitment (Sep 3, 2019):

e.g., (to an EPP member's question) “[reconsider](#) the definition of the market.” (→ ‘global market’)



Q1. Why is it on the agenda now?

- So, why now?

- Concerns over blocking potentially beneficial mergers and acquisitions,  amid intensifying global competition and **fears of falling behind the US, China**
 - What is the “potentially beneficial” deal? A deal that is anti-competitive (due to its scale) but possibly pro-growth (thanks to its scale)?
 - Fundamentally, this reflects a **loss of faith in competition** as a driver of growth, and rising **hopes that consolidation might instead deliver better outcomes**.
- But, precisely, **who** exactly has lost faith, and **who** is raising the hopes?
 - ▶ It is **big firms, major jurisdictions, and certain politicians**.

In *Siemens / Alstom*, the criticisms against the decision stemmed from the **merging parties, Germany and France**, and certain **politicians**.
 - ▶ But, **customers, competitors, industry associations, trade unions**, and other **NCA**s (e.g., ACM, BCA, CMA, CNMC) expressed concerns against the deal.



Q2. What does it essentially propose?

- Recent policy recommendations (2024)



- [Letta Report](#) (commissioned by the Council, Apr 2024):

“The scale of investments necessary in new technologies ... implies that due consideration should be given to the necessity of some level of consolidation within national markets.” (pp.55-56)



- [Draghi Report](#) Part A and B (requested by Von Der Leyen, Sep 2024):

For “closing the innovation gap”, “facilitating consolidation” is needed (A, p.35) (e.g., in the telecoms sector)

by **defining the markets more broadly**, allowing for an “**innovation defence**”, accepting **investment commitments**, and strengthening **ex post control** (B, p.75, p.299)

* Also, for defence, “EU competition policy should enable such consolidation”, (A, p.61; B, pp.162, 170) by adding a ‘public interest’ (i.e., security and resiliency) criterion (B, p.300)

[Logic] Merger control is “too backward-looking” (B, p.299) and (too much) ‘favoring a plurality of players and low prices’ (B, 70) (Also, A, p.31) → “fragmented market” (A, p.31) → Lack of “sufficient scale” (B, p.298) → “productivity challenge” (A, p.23)

Relaxing the control

- New Commission’s positive responses:

- [Competitiveness Compass](#) (Jan 2025, pp.6-7);

[Call for tenders](#): Study on Dynamic Merger Effects (Mar 2025);

[In-Depth Consultation](#) on Merger Guidelines Review (May 8 – Sep 3, 2025)



Q2. What does it essentially propose?

- So, what's proposed?
 - Relaxing the current merger control to allow 'pro-growth consolidations.'
(*via*, e.g., broader market definition, innovation defence, public interest...)
 - 'Pro-growth' consolidation?
E.g., 'mergers that are needed for innovation, and that would cause no harm to consumers in the long run' (Draghi report, B, p.299)
 - ➔ **To read between the lines:**
'(on an exceptional basis) allowing **anti-competitive (harmful to consumers)** mergers, which should be blocked or permitted only with structural remedies, in the hope that they **may deliver better outcomes by encouraging greater post-merger investment** (in an uncertain future).'
- * Meanwhile, in the UK ... 
 - [Starmer](#): "We will rip up the bureaucracy that blocks investment,"; "We will ... make sure that every regulator ... especially our economic and competition regulators ... take growth as seriously as this room does." (Oct 14, 2024)
 - [Vodafone/Three](#) with a novel investment remedy (Dec 5, 2024)
 - Bokkerink's [dismissal](#)!! (Jan 21, 2025), and his response on [LinkedIn](#).

Q3. How convincing is the proposal?

- Some questions that undermine its convincingness

1. Why is the institutional fragmentation attributable to a lack of mergers?

- The fragmentation is not due to **firms**' behavior (unless they've engaged in divisions), but because of the different institutions between Member **States**.
- Can large firms contribute to the harmonization of the national institutions?
 - through 'within-border' consolidation? **X (Likely to exacerbate the fragmentation)**
 - 'cross-border' consolidation? **Possibly? – But does it raise any institutional issues?**



Former EVP [Vestager](#) (Apr 18, 2024)

(On Letta's proposals) "I don't agree: **no evidence suggests that more concentrated national markets lead to better outcomes**. And certainly, consolidation at the national level would not lead to the creation of pan-European players."

Authority for
Consumers & Markets



Federal Competition Authority



ÚŘAD PRO OCHRANU HOSPODÁŘSKÉ SOUTĚŽE
OFFICE FOR THE PROTECTION OF COMPETITION

Belgian
Competition Authority



Comissão para a Defesa da Concorrência
Competition and Consumer Protection Commission

Mid-sized jurisdictions' [joint statement](#) (Apr 22, 2025)

"The narrative that fragmentation in the electronic communications sector, hindering investment and innovation, allegedly results from unduly strict competition rules is misplaced. In fact, lax merger control could not only undermine consumer welfare directly, but also investment and innovation."

Q3. How convincing is the proposal?

- Some questions that undermine its convincingness

2. Similarly, why should the relevant market be defined more broadly in mergers? Especially when national markets are fragmented (by different rules)?

- After all, ‘relevant markets’ → recognition of ‘competitive relations’
Artificially broadening → functionally equivalent to committing *Cellophane fallacy*?
- Other institutional resolutions* logically come first.
* e.g., removing regulatory barriers and thereby broadening competitive relations

**Draghi is right on many issues,
but he is wrong on telecoms**

Tomaso Duso, Massimo Motta, Martin Peitz, Tommaso Valletti / 17 Sep 2024



Tomaso Duso



Massimo Motta



Martin Peitz



Tommaso Valletti

[Tomaso Duso et al.](#) (Sep 17, 2024)

“... EU-wide market definition, which would **artificially de-concentrate the relevant market**, thereby making intra-national mergers appear no longer problematic on paper. If markets are not EU-wide, pretending they are would allow for mergers that would be detrimental to European businesses and consumers”.

Other critical comments... ([GCR](#), Oct 28, 2022)

Philippon: ‘a lack of regional providers is down to overregulation, not aggressive merger control enforcement’

Bradford: ‘EU markets were burdened by out-of-date regulation’; ‘the absence of a single capital markets union is to blame because it means EU investors cannot compete with US venture capitalists.’



Q3. How convincing is the proposal?

- Some questions that undermine its convincingness

3. A coarser or a finer sieve—what does the EU really want?

- “While the **scaling up** of companies with disruptive technologies can help disseminate important innovations across the economy, the acquisition of nascent competitors by large established players to protect their market power (so-called “**killer acquisitions**”) might harm innovation.”
— [In-Depth Consultation Topic A](#) Description, para 18.
- Is the goal to loosen the filter (e.g., through the ‘innovation defence’), or to tighten it (e.g., to better catch potential ‘killer acquisitions’)?



Ribera: Killer acquisitions still a key concern

Francesca McClimont
04 April 2025



Preventing unlawful killer acquisitions and working with national enforcers to call in below-threshold transactions are the “most compelling” merger control issues that the European Commission currently faces, the EU’s top antitrust official has said.



[In my view...] If a coarser filter is preferred in *ex ante* merger control (for a laxer review) the ‘killer acquisition’ is better addressed in *ex post* frames (Towercast).

Q3. How convincing is the proposal?

- More questions that undermine the proposal's convincingness

4. Under the current pressure, can mergers still be properly screened out?

- Suppose, anti-competitive, harmful deals may, in exceptional cases, be beneficial —by encouraging greater investment and leading to growth
 - ↔ Although “Empirical evidence consistently shows that telecoms mergers lead to higher prices and are unlikely to boost investment.” – [Tomaso Duso et al.](#) (Sep 17, 2024)
- Under the current pressures (from, e.g., large MSs, big firms, and politicians) if ‘cases like Siemens/Alstom’* happen again, will the COM be able to block it again?
 - * Disguised deals: clearly anti-competitive deals, disguised as pro-innovation or pro-competitiveness.

On Draghi Report

Ascola Asia Workshop in collaboration with Global Dokkin Project



Speaker:

Prof Tommaso Valletti
Imperial College Business School, London

([ASOCLA Asia](#), Apr 15, 2025)

- Already two big European champions
- ‘China defence’ raised – False argument
- ‘Efficiency defence’? – No (merger-specific) synergies
- Better performance after the block decision

Q4. Is it also relevant for non-EU jurisdictions?

- Will the EU debate spill over into other jurisdictions?
 - The European Commission seems to be taking a balanced approach (atm).
 - * See the Commission's [consultations](#) for the review of Merger Guidelines (May 8, 2025)
 - The concern lies elsewhere: **mid-sized non-EU jurisdictions** facing the same economic, technological, and geopolitical **uncertainties**.
It's not the classic "*Brussels Effect*" scenario.
A 'race to the **top**' phenomenon driven by global firms aligning with the highest standard for compliance-cost efficiency ≠ relaxing merger control



Other jurisdictions (?)

Q4. Is it also relevant for non-EU jurisdictions?

- Will the EU debate spill over into other jurisdictions?
- Probably, yes, in the view of **institutional** (not competitive) **isomorphism**
 - **[Mimetic processes]** Under “**uncertainty**”, organizations, including nation’s administrations, tend to model after similar organizations that they perceive to be more “**legitimate** or **successful**.” (e.g., mimicking the EU’s approach) (DiMaggio & Powell, 1983, 151-152)
 - **[Normative pressures]** And/or professional networks (e.g., ICN and OECD) may provide professionals with **a cognitive base and legitimation** about certain organizational and professional behavior (e.g., EU’s policy shift), and these may act as a further isomorphic force. (*Id.*, 152-153)
- Probably, the EU’s shift, if occurs, may affect debates in other economies.

Q4. Is it also relevant for non-EU jurisdictions?

- **Point to Note**: But the relevance is not necessarily desirable.
 - ‘Is the pro-growth narrative relevant?’ ≠
‘**Should** the *pro-growth* narrative be relevant?’
 - “... the institutional isomorphic processes can be expected to proceed in the absence of evidence that they increase internal organizational efficiency.” (*Id.*, 153)
 - For other jurisdictions, with different market structures and needs, the ‘Pro-Growth Merger Control’ may be contextually inappropriate.
Nevertheless, (irrational) institutional isomorphism may occur, because rational policy designers may seek legitimacy (not efficiency) and this can lead to homogenization even when diversification serves better
→ The ongoing ‘Pro-growth Merger Policy’ debates warrant **careful** attention.



“Is his answer right?”

“Is he even answering the same question I got?”

You still have time to think...

Q5. Should non-EU jurisdictions embrace it?

- What other jurisdictions must take into consideration

1. Different policy foundations

- *Single Market* imperative → EU's push is inseparable from the region's goal.
Fixing Market Fragmentation → key justification for cross-border consolidations.
- In most non-EU jurisdictions,* **merger control has nothing to do with that goal.**
The EU's justification (that may work in the bloc) travels poorly.
(Except for jurisdiction building a regional bloc, e.g., ASEAN community)

* **Potential policy implication:** Need to encourage **cross-border regional deals?**

SEMICONDUCTORS

TSMC opens first chip plant in Japan for Sony and Renesas

Prime Minister Kishida announces support for company's second plant in Kumamoto



Taiwan Semiconductor Manufacturing Co. opened its factory in Kumamoto, Japan, on Feb. 24. (Photo by Arisa Moriyama)

CHENG TING-FANG, LAULY LI and RYOHTAROH SATOH, Nikkei Asia tech correspondents
February 24, 2024 14:08 JST • Updated on February 24, 2024 14:56 JST

Toyota joins with Hyundai's Boston Dynamics on AI-powered robots



Toyota Research Institute and Boston Dynamics are set to conduct research on use cases for AI-trained robots in areas such as human-robot interaction. | BLOOMBERG

BY CHESTER DAWSON
BLOOMBERG

SHARE/SAVE Oct 17, 2024





2024년 1월, 글로벌 M&A 시장 환경. 약 3000여명의 사람들이 참여한 M&A 관련 컨퍼런스 참가자들이 열린 제1회 M&A 컨퍼런스에서 자리를 잡았다. (사진은 기사)

Between 2019-2023, **only 0.3%** of Korea's cross-border M&A transactions involved Japanese firms, compared to 33% involving firms from the US and the Cayman Islands (a tax haven).
- ccording to the Korea M&A Exchange (KMx),

Q5. Should non-EU jurisdictions embrace it?

- What other jurisdictions must take into consideration


1. Different policy foundations

-   LINE (**NAVER**) – Yahoo! Japan (**SoftBank**): Quo Vadis?

The New York Times

Japan and South Korea Are Fighting Over an App at a Tense Time

SoftBank and Naver helped bridge geopolitical relations with a joint venture to own the operator of the messaging app Line, but now the partnership is fraying.



Diplomats and international relations experts fear that a rift over the ownership of a Naver-SoftBank venture could again put stress on ties between Japan and South Korea. Lee Jae-Won/AFLO/Shutterstock, Takaaki Iwabu/Bloomberg

By **River Akira Davis**
Reporting from Tokyo

June 24, 2024

- A joint venture between two, set up in 2019.
(raising competition concerns in Japan's news distribution, digital ad, code payment markets)
- Conditionally cleared by the JFTC in Aug 2020
(on conditions such as non-exclusive term commitments, monitoring, data firewalls, etc.)
- Industrial policy concerns:
“We’ll aim to first grow in Asia and then become the third-largest force next to GAFA and BAT,” (said, Line President Takeshi Idezawa)
- Nov 2023, a security, privacy breach outbreak (on NAVER’s side) (unauthorized access was detected)
- Mar 2024, Japan’s Government’s admin guidance
- Sparked a regional controversy over the ownership
- In 2025, technical separation of systems between LY and NAVER continues

Q5. Should non-EU jurisdictions embrace it?

- What other jurisdictions must take into consideration

2. Coherence issue

- Tougher merger scrutiny to review killer acquisitions
 - **consistent** with stronger competition enforcement (e.g., Vestager's DG COM).
 - **inconsistent** with relaxing *ex ante* merger control
- (**unless** the two filters target different groups based on nationality)*

- * Such a two-tier filter, *i.e.*, looser for domestic champions, tighter for foreign firms, would amount to overt protectionism; trade partners will react.
- * The European economy (with strong investment appeal) may withstand.
But non-EU economies lack in such advantages (e.g., the **internal market**).
They require greater openness, underpinned by neutral, rules-based frameworks.

Q5. Should non-EU jurisdictions embrace it?

- What other jurisdictions must take into consideration

3. Governance issue – filtering problem

- Expanding industrial-policy consideration in merger control
→ risks undermining the filtering function, meant to block **disguised harmful deals**
- How did EU safeguard against Siemens / Alstom? (institutional perspective)
 - **Polycentric competition governance:**
 - Firms initiated and large Member States backed it;
 - Several NCAs opposed the deal;
 - The Commission decided to block it;
 - CJEU: An erroneous clearance could've been challenged (Art 264, para 3, TFEU)).
 - The **multiple veto points** may help keep the filter functional, even when priorities shift.
- Non-EU jurisdictions? **The likelihood of false clearance will rise ▲**
 - Mostly **mono-centric governance:**
Once the executive (government) signals a direction, agencies tend to fall in line.
 - Example: ***Korean Air / Asiana Airlines (2021)***:
The same government promoted, reviewed and approved the merger.
No mechanism allowed 3rd party to challenge the KFTC's decision.

Q5. Should non-EU jurisdictions embrace it?

- What other jurisdictions must take into consideration

3. Governance issue – filtering problem

- The core tension lies in balancing two risks (under institutional constraints):

Pro-compt **The risk** of blocking potentially beneficial monopolistic deals
(by adhering to market-based competition and letting the market pick the winner)

Pro-growth **The risk** of approving disguised anticompetitive mergers
(by allowing exceptional flexibility to clear certain monopolistic deals in the name of growth or innovation—even if they have anti-competitive effects)

- If a jurisdiction cannot reliably control the latter, **Pro-growth**
then sticking to the former is the safer institutional choice.
Pro-compt



SUMMARY

Why now?

- Catching up with the US & China;
Voices pushing for less competition, more state intervention.
- Large firms and large MSs push louder;
But opposition remains.

What is proposed?

- More consolidation to fix fragmentation,
via market definitions, innovation defence, investment pledges, etc.
- In essence: clearing anti-competitive, but possibly beneficial, deals.

Convincing?

- Is fragmentation due to too few mergers?
- Broader market definition, or just an erroneous definition?
- Loosening (pro-growth) or tightening (killer-acquisition) the filter?
- Can the filter still function properly?






Relevant for others?


- Institutional isomorphism: Spillover is likely.
- But not necessarily justified.


Should it be relevant?

- ✗ The 'market fragmentation' justification doesn't apply
(except for encouraging regional, cross-border M&As).
- ✗ The two-tier filter won't work in non-EU economies.
- ✗ Filtering failure is more likely in mono-centric governance.

Some personal reflections...

- Do ‘**anti-competitive**, **but pro-growth**’ deals really exist?
 - Platform-based tech firms      did not emerge through large mergers —although they may have maintained their dominance through acquisitions.
 - “In fact, there is no EU company with a market capitalisation over EUR 100 billion that has been et up from scratch in the last fifty years, while in the US all six companies with a valuation above EUR 1 trillion have been created over this period” (Draghi, A, p.24)
 - Also, leading semiconductor firms achieved growth without relying on acquisitions. (although they have been supported by the government’s industrial policy)

 **Samsung Electronics** entered semiconductors by buying KoreaSemiconductor in 1974, but later success came from massive investment, not consolidation.

 **TSMC** prospered *via* an innovative foundry model.

- The closest example of the ‘pro-growth merger’ is the **Hyundai-Kia** deal?
 - Yet, KFTC now views the 1999 clearance as a major misstep, with consumers still facing high prices and quality concerns.
 - Korean consumers have been exploited for decades through high prices, low quality, and limited choices...



Some personal reflections...

- Conclusive thoughts
 - Industrial policy tools may support growth—
but consolidation through anti-competitive mergers is unlikely to be one of them.

For middle-power jurisdictions,

- The priority should remain on **strengthening** (still-maturing) **competition policy**.
 - Weakening merger control (in the name of growth) is unconvincing and risky.
 - No compelling reason to revise the current framework solely for growth.
- One useful, context-specific takeaway from the ‘pro-growth merger policy’ debate is **the need to facilitate cross-border M&A to support regional cooperation**.



Play your own game and stick to it.

Thank You

E-mail sangyunl@korea.ac.kr

Papers ssrn.com/author=2725648

LinkedIn linkedin.com/in/sangyunl

Facebook facebook.com/competlaw

Blog (KR) brunch.co.kr/@lsangyun