

Issues for defining relevant markets for competition analysis in the oil and gas industry

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Fundamentals of defining relevant markets for competition analysis

- An economic/legal concept
 - economic substitutability is a key concept
- Not consistent with standard business views of markets
- Four dimensions
 - product
 - geography
 - function
 - time (often overlooked, but critically important, and must be forward-looking)
- Standard techniques are often employed

My three areas of focus

- Breadth of markets
- Downstream markets
- Upstream markets

Breadth of markets

Narrow markets - Kapuni litigation

- Only gas
- Separation of the gas market by identity of buyer causes problems
- Ignores sales across market segments
- Ignores potential competition from others with significant rights to gas reserves

AGL/Cooper Basin litigation (Australia)

- Broader than gas at the margin
- All gas in one market
- Expanding geographic scope of market

Downstream issues

Various merger/acquisition proposals

- Wholesale vs retail
 - Identity of buyer or volume of purchases is a poor method of distinction
 - Functional level more properly defined as a function of risks and rights
- Market definition for small consumers - gas vs electricity
 - How real is asymmetry in constraints?
 - Even if so, gas market must be broader than just gas

Upstream issues

Various Merger/Acquisition Proposals

- Question: should the combination be production/exploration vs production/wholesale
 - Appropriate functional perspective required
 - Must take into account the need to consider commercial perspectives/operational imperatives
 - Conclusions:
 - * Exploration and production are substitutes in the long-run
 - * Since NZ and AUS production levels are mainly determined by sales contracts, production and wholesale are often substitutes in the short-to-medium term (and possibly the long-term as well)