Dominant Position in a Relevant Market[1]
Market Power: How to Identify It

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Dominant position checklist

1. First define the relevant market.

2. Measure the shares of the firms selling in the market.

a. The primary principle is to use whatever information is reasonably available.

Inevitably, compromises must be made.

b. The preferred information is that which is the best measure of a firm's significance to competition in the market. Some traditional rules of thumb are as follows:

i. In an industrial goods market, the capacity to produce the relevant product is the best measure. It reflects firm's ability to produce output, which is the most important factor in most such markets. (Output (production) is sometimes used as an alternative, if necessary.)

ii. In a consumer goods market, the value of firms' sales is the best measure. Since these products are often differentiated from each other by brands and other differences, the capacity to produce may not be equivalent to the capacity to sell and thus to have an influence on the market. (Output Production) is sometimes used as an additional source of information, or as an alternative, especially if inflation makes monetary value information from different firms difficult to compare.)

iii. In a natural resources market, a firm's reserves of the product (such as estimated amount of coal in the ground) is the best measure. It is the best indicator of a firm's long term significance in the market.

3. Evaluate the level of concentration in the market.

a. Does the suspected dominant firm have a share of the relevant market greater than 40% ? If so, continue. If not, probably there is no dominant position.

4. Evaluate entry conditions to determine if entry is relatively easy. In evaluating entry conditions, ask the following questions:

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- In this market, would entry by new firms be likely to discourage any attempt by the largest
- firm to charge a high price or to act independently of its competitors or customers?

a. Technical/production requirements for entry. How easy or difficult would it be to obtain the necessary facilities, raw materials, and technology to begin production? What scale of operations is required to be efficient? How long would it take to enter? Is a substantial portion of the costs sunk (unrecoverable)?

b. Marketing/sales requirements for entry. How easy or difficult would it be to begin selling the relevant product in the market? Are licenses or approvals required? Is a distribution network available, or possible to create? Can customers be convinced to buy the product from a new entrant? Is a substantial portion of these costs sunk (unrecoverable)?

c. Likelihood of entry. How likely is it that new firms would enter the market? What are the profit opportunities, compared to the costs? Is financing likely to be available ? Is the market growing, stable, or shrinking? Is the possibility of entry likely to influence strongly the actions of the suspected dominant firm?

If entry is easy, than it is very unlikely that any firm can have a dominant position on the market. The presumption that a firm with a large market share has a dominant position has been rebutted. If entry is not easy, then consider the degree of difficulty of entry, as indicated, in the next step.

5. Consider other factors that may rebut the presumption that a firm with a 40% market share is dominant. Is it likely that this firm can act independently of its competitors and customers? Can it control price or exclude competition?

Market conditions that make it less likely that a large market share creates market power, or a dominant position (When some of these conditions are present, a larger market share should be required before a conclusion is reached that there is a dominant position in the market, or, if present strongly, no dominant position is possible in the market.)	Market conditions that make it more likely that a large market share creates market power, or a dominant position (When most or all of these conditions are present, it is more likely that the presumption of dominance should be accepted.)
The quantity of output of firms in the market is flexible and may be expanded, such as services, distribution, or simple manufacturing.	The quantity of output of the firms in the market is closely related to substantial capital facilities of each firm, such as large, complex factories. The quantity of output of the firms in the market is closely related to the reserves of important raw materials owned by the firms, such as mines.

The firms in the market have substantial excess capacity (and this is not a temporary phenomenon).	The firms in the market are using nearly all of their available capacity.
Supply substitution is relatively easy. Firms in related markets can shift their production and begin making the relevant product.	Supply substitution is difficult. Even firms in related markets would have difficulties in beginning to make the relevant product.
The market is growing.	[A stable market is ambiguous.]
The market is changing rapidly.	
The firm has a large market share because it has recently introduced a new product in the market.	
Some of the other firms in the market are also substantial in size.	There is a big difference in the market share of the largest firm and the market share of the next largest firm.
Import competition is important and it is not limited by quotas or other quantity limits.	Import competition is not important. For example, (1) there are few imports and the amount of imports is not likely to expand if price increases by a small but significant amount, or (2) the quantity of imports is limited by quota.
Even though entry is not so easy that it led to a conclusion in item 4, it is not very difficult.	Entry is difficult or impossible.

6. If the market share of the suspected dominant firm is less than 40%, only very unusual circumstances should lead to the conclusion that it has a dominant position.

a. Does the firm have some governmental or quasi-governmental right that gives it power over its competitors? Examples might include licensing or authorizing imports, confirming the quality or standards met by competitors, or other similar powers that give the firm some power to exclude or substantially to disadvantage competitors.

7. Check the realism of the overall conclusion. Does this firm seem like it is able to operate in the market without paying significant attention to its competitors or its customers?