

Comments: “Collusion on Markets with Syndication”

By Hatfield, Kominers, Lowery & Barry



Rosa M. Abrantes-Metz
Global Economics Group
Stern School of Business, NYU

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Existing Empirical Evidence Consistent with Possible Collusion Already Exists

- **Spreads are too high compared to Europe**
- **Spreads are too clustered around 7%**
 - Too low intra-day variability in spreads
 - Too low inter-day variability in spreads
- **This has apparently been happening for over a decade**

Very Low Spreads Variance Throughout 2009 (and Until Now)

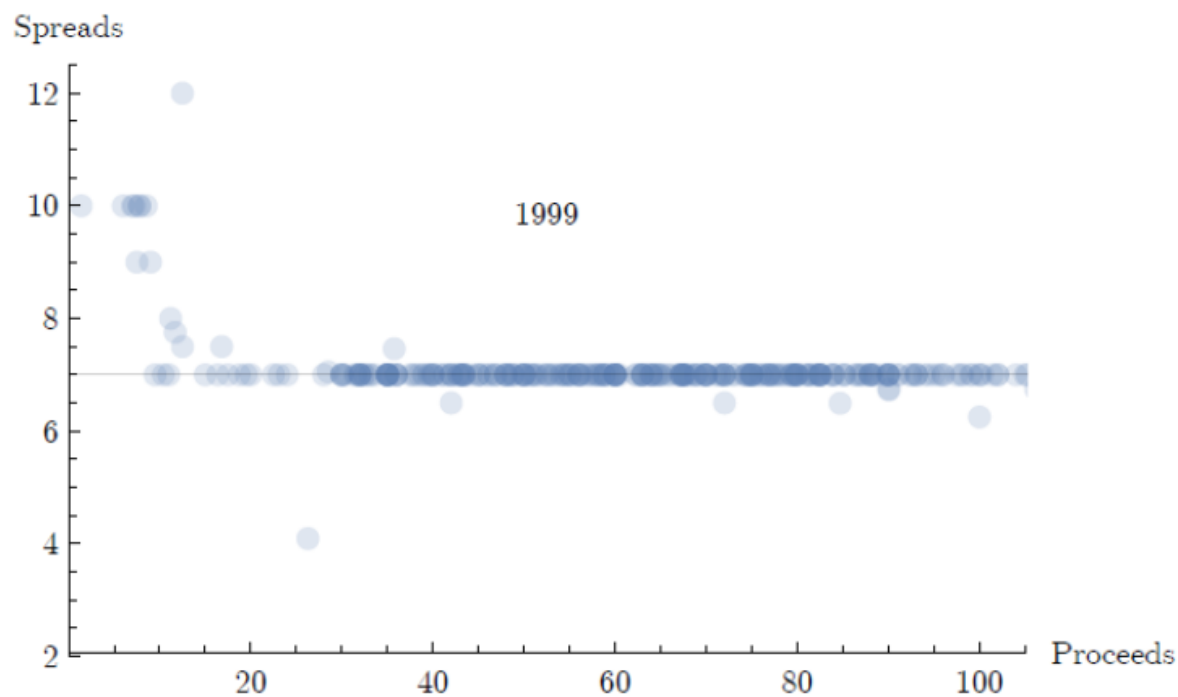
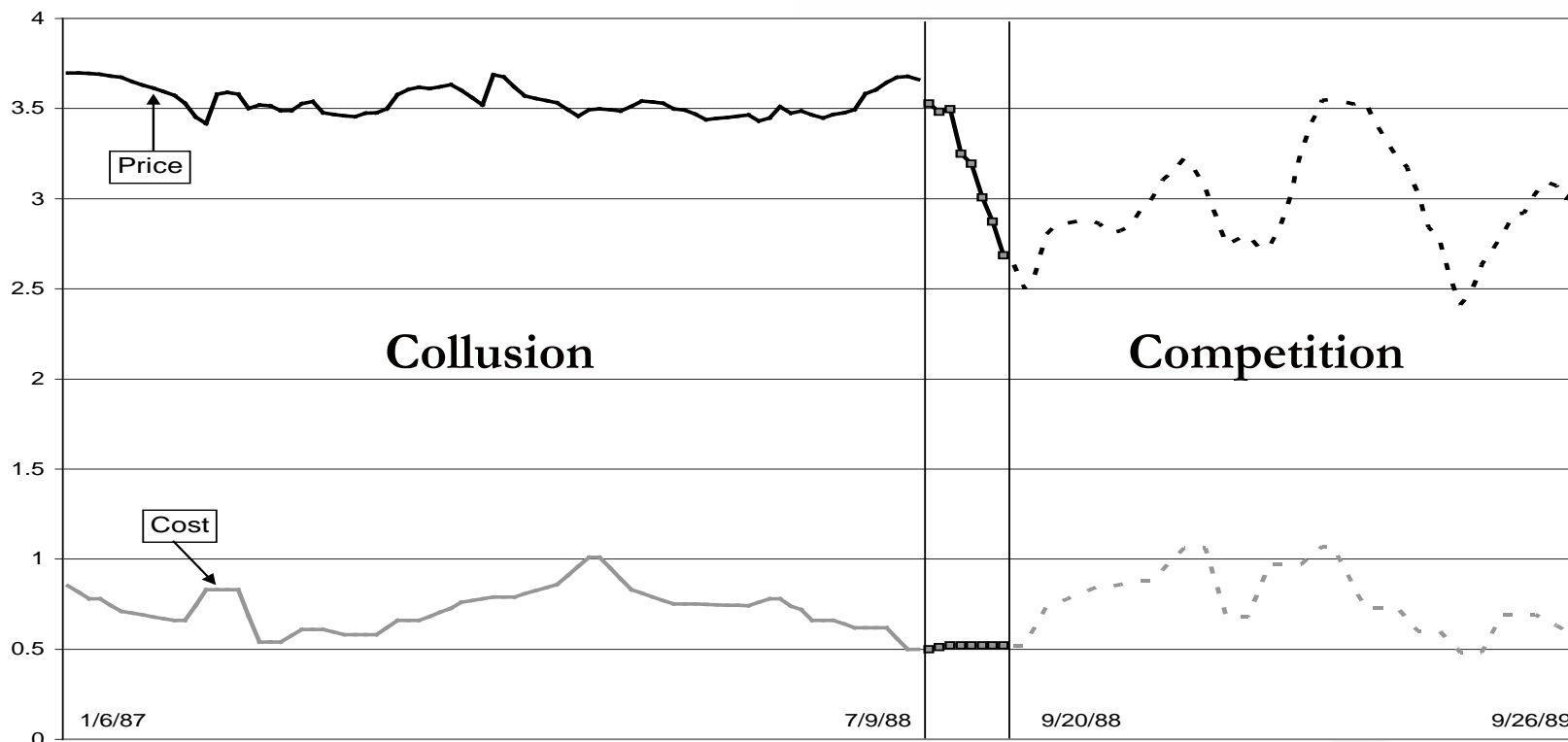


Figure 1: This figure shows the relationship between IPO proceeds and spreads for IPOs with proceeds less than \$100 million in 1999. Proceeds (in millions of dollars) are plotted on the *x*-axis and spreads (i.e., the percent of the proceeds that go to the underwriter) are plotted on the *y*-axis. A description of the data used for this figure can be found in Appendix A.

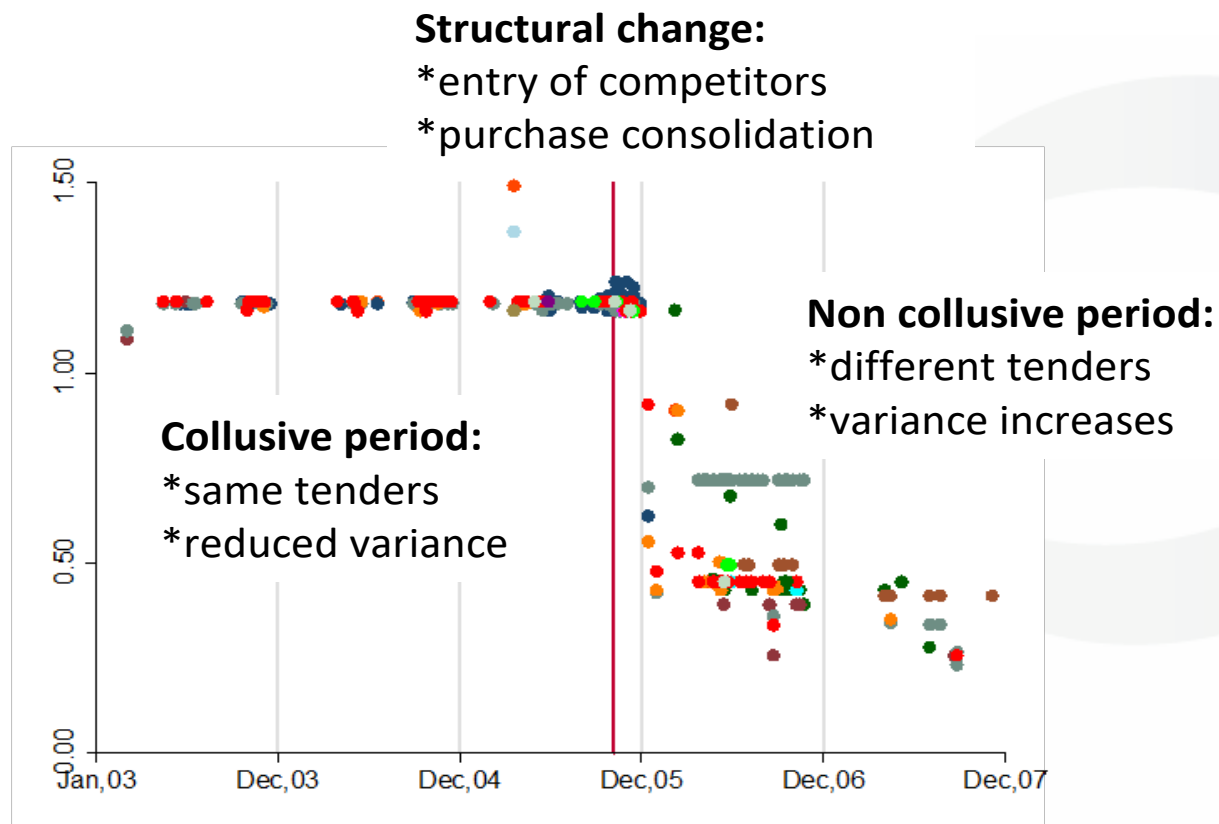
A Variance Screen for Collusion: Price-Fixing and Bid-Rigging Leading to High Prices and Low Price Variance (Clustering)

Frozen Perch Prices and Costs: 1/6/87 - 9/26/89



(Abrantes-Metz, Froeb, Geweke and Taylor (2006))

Mexican Competition Authority: Pharmaceuticals Bid-Rigging and Price-Fixing



(Mena-Labarthe (2012))

This Paper's Contribution

- **To provide the theoretical framework on how the IPO syndicated market may generate collusion, when it is characterized by some features commonly less associated with collusion. Those features include**
 - Many small players (remember Libor?)
 - Collusion may become easier as market concentration falls
 - Market entry may facilitate collusion
- **But if collusion is occurring then there must exist other structural factors providing the means, motive and opportunity to collude..**
 - Because syndication follows the pricing stage, colluding firms can punish (in-period) a firm that undercuts the collusive price by refusing to participate in that firm's syndicate

But Are There Potentially Other Key Structural Features?

- **If costs are too high for one single firm to service the market by itself, then the structure of the market needs to operate with coordination among competitors, and that on the one hand incentivizes (illegal) collusion, but on the other hand the same outcome could be generated through tacit collusion**
 - It does not seem to be possible not to coordinate in the second stage of the process.. This is the real incentive to potentially collude in the first stage...
 - This feature is very different from most other markets
 - Whether it is explicit or tacit collusion, is this a desirable structure?
- **Given that coordination will have to occur, then the “safest” unilateral strategy by any one firm is to stick to the same conduct as everyone else, so that there is at least a chance that they may be chosen to join the winning group**
 - The feature of “the winning subcontracting the loser” as in bid-rigging provides the incentive to stick to everyone else’s strategy

Alternative Design?

- If costs are too high for one single firm to service the market by itself, in order to avoid collusion why not require firms to select which firms to group together in the first stage, when competing for the contract, and present one bid per group, with competition across groups?
 - Wouldn't this be superior/more robust to collusion?

How About Potential Colluders Knowing That Antitrust Claims Cannot Be Brought Against Them?

- Importance of the Supreme Court Decision *Credit Swiss Securities (USA) v. Billing*, 2007
- This case provides a multi-part test, with the following basic idea
 - If there is another regulator with authority over the item in question;
 - If applying Antitrust laws would contradict guidance given by that other authority; and
 - If the other regulator is actually doing something about the problem.**Then, yes, Antitrust is preempted.**
(Though there exceptions)

Thank you very much!

RAbrantes-Metz@GlobalEconomicsGroup.com

Rosa M. Abrantes-Metz, PhD



Dr. Rosa M. Abrantes-Metz is a managing director in the antitrust, securities and financial regulation practices of Global Economics Group based in New York. Her experience includes work in consulting and banking, as well as in government. Her main areas of specialization are econometrics, monetary and financial economics, and applied industrial organization. Dr. Abrantes-Metz is an adjunct associate professor at Leonard N. Stern School of Business, New York University, where she has taught money and banking, financial institutions, and industrial economics, and empirical business strategies. She has taught econometrics at the department of economics at the University of Chicago, and various other fields of economics at Universidade Católica Portuguesa, in Lisbon, Portugal. Dr. Abrantes-Metz's work has been featured in the press such as the Wall Street Journal, Financial Times, The Economist, CNNMoney, CNBC, Crain's, Forbes, Bloomberg, BusinessWeek, Washington Post, Reuters, Risk Magazine, Investor's Business Daily, SkyNews TV and BBC Radio.

After working as a staff economist at the Federal Trade Commission, Dr. Abrantes-Metz continued to serve as a consultant for special projects with the Commission's Bureau of Economics and she is also a consultant for the World Bank.

Dr. Abrantes-Metz is the author of several articles on econometric methods and screens, conspiracies and manipulations, gasoline, pharmaceuticals and health care, telecommunications, monetary policy, event studies, valuation, structured finance, credit default swaps, credit ratings and new statistical tests, representing some of the areas in which she has also worked as an economic consultant. Dr. Abrantes-Metz has published in various peer-reviewed journals and trade publications. She is a co-drafter of the chapter on the role of the economic expert in proving conspiracy cases under federal antitrust laws in a recent volume published by the American Bar Association. In addition she has contributed to other books on international arbitration with a focus on event studies, and is a co-author of the chapter on corporate governance and compliance in the Oxford Handbook on International Antitrust Economics. She has developed numerous empirical screens for conspiracies and manipulations, and is a pioneer in the field, contributing to the further development and increased adoption of these methods. She has flagged potential anticompetitive behavior preceding large scale investigations, such on the alleged Libor conspiracy and manipulation, the London Gold Fixing, and has testified on behalf of the US Government. Her screens are used by competition authorities, defendants and plaintiffs worldwide.