

**John Kwoka's *Mergers,
Merger Control, and Remedies:*
A Critical Review**

by Mike Vita and David Osinski

The views expressed herein are those of the speaker and do not necessarily reflect the views of the Federal Trade Commission or any individual Commissioner.

Kwoka

“Thus, while neither type of remedy for competitively problematic transactions seems to have been especially effective in restraining post-merger price increases, conduct remedies were by far the weaker of the two.” (p. 120)

“agencies’ actions were effective” (p. 120).

Action	Average Price Effect	Number of mergers
All mergers in the sample	7.22%	42
All mergers opposed by agencies	1.86%	5
Mergers when a divestiture remedy was obtained	7.05%	6
Mergers when a conduct remedy or conditions were imposed	16.03%	
Mergers explicitly cleared by agencies	6.08%	
Mergers presumably cleared due to lack of explicit information	7.15%	
JVs and code shares	-2.18%	

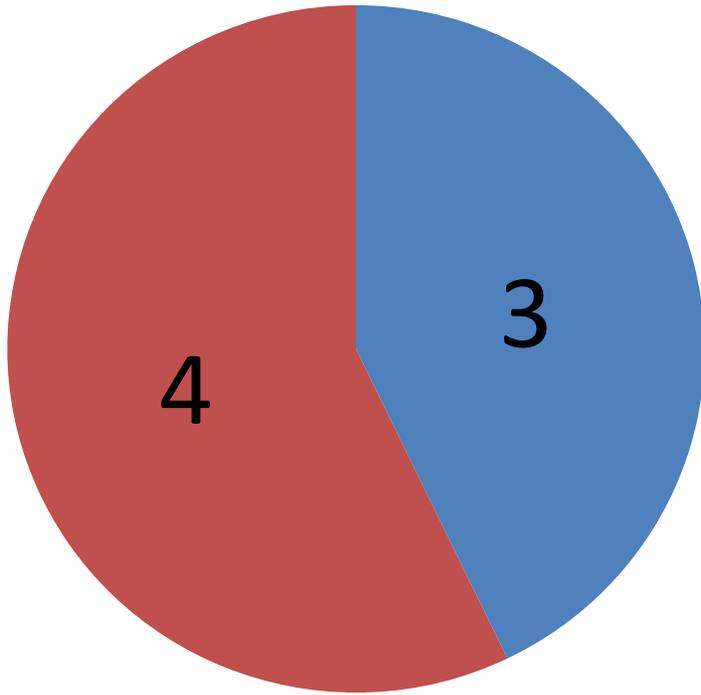
“[T]hese studied mergers appear to be cleared too often.” (p. 120). “The agencies ... fail to challenge a considerable fraction of [mergers] that result in price increases.” (p. 126)

“[T]hese types of arrangements are not full mergers and as a general rule may not raise the same concern” (p. 111)

Industry composition

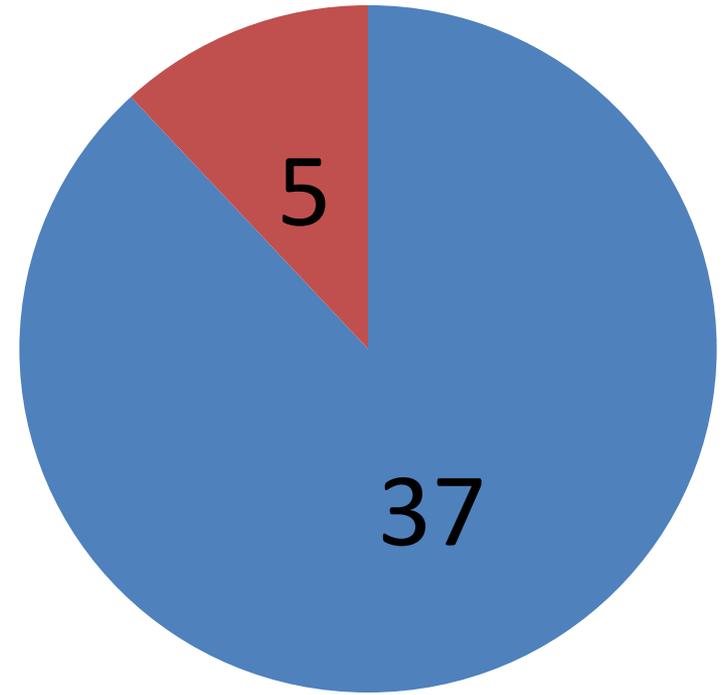
JVs and Code Shares

■ Other ■ Airlines



Mergers

■ Other ■ Airlines



DOT-era Airline mergers in Kwoka (2015)

	Status	Average	Boren-stein 1990	WJJ 1991	Morrison 1996	Peters 2006	K&S 2010
NW/Republic 1986	DOJ- oppose DOT- clear	6.2%	9.5%	5.6%	2.5%	7.2%	
TWA/Ozark 1986	DOJ- oppose DOT- clear	8.2%	no effect	1.5%	15.3%	16%	
Texas/People 1987	Both cleared	29.4%				29.4%	
Delta/Western 1987	Both cleared	11.8%				11.8%	
USAir/Piedmont 1987	Both cleared	17.8%			22.8%	20.3%	5.0% to 10.2%
	Average	14.7%					
	DOJ opposed	7.2%					
	DOJ cleared	19.7%					

Post-DOT Code Shares in Kwoka (2015)

	Status	BCN 2004	A&R 2008	Gayle 2008
CO/AW 1994	DOJ cleared	-7.1%		
NW/Alaska 1995	DOJ cleared	-6.1%		
CO/NW 1999	DOJ cleared (initially opposed)		-3.2% *	
Delta/CO/NW 2003	DOJ cleared			1.8% **
Average		-3.7%		

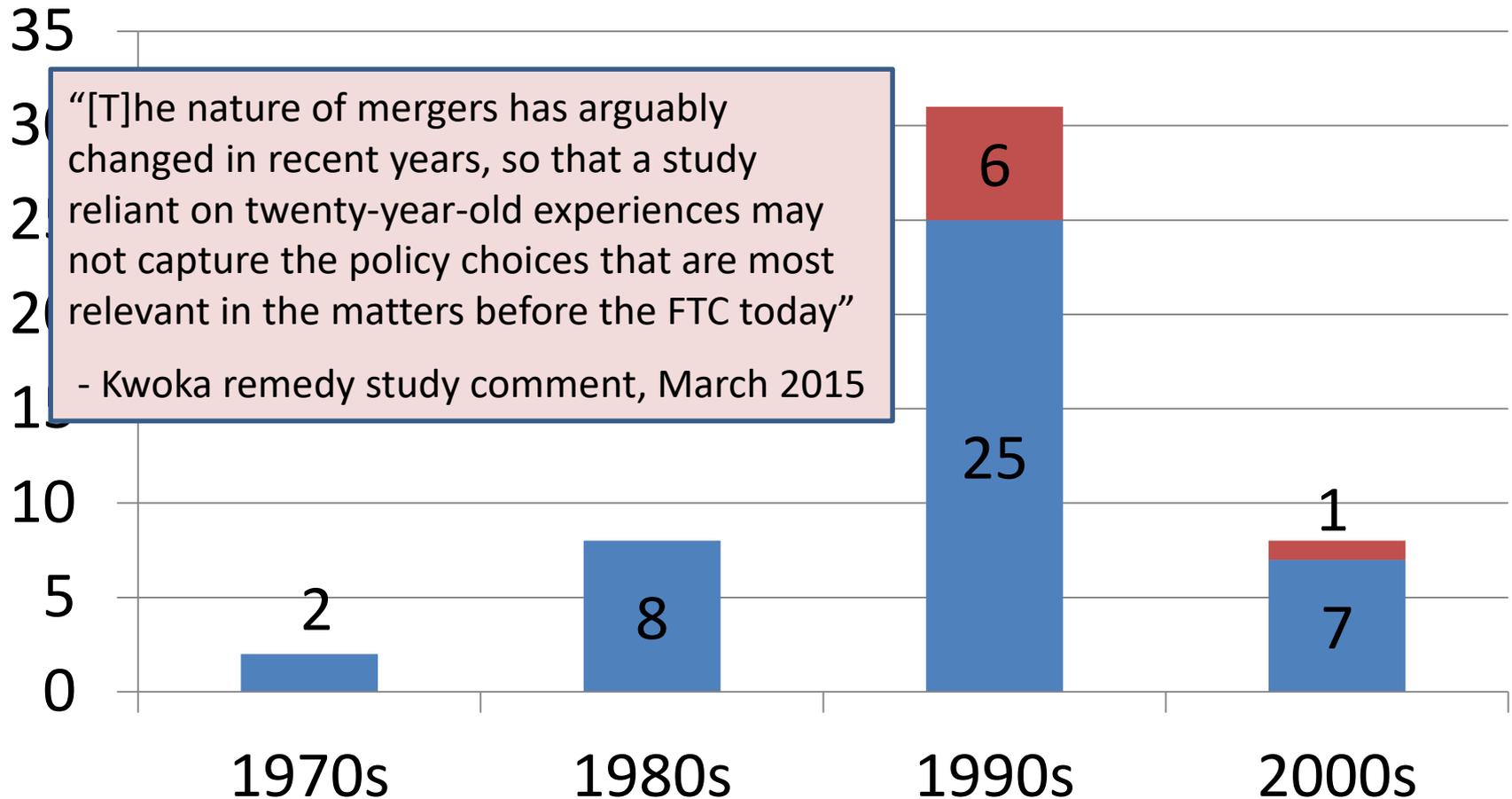
“[I]n contrast to mergers, joint ventures and code shares seem to be much less competitively problematic.” (p. 158)

* Prices increased on other routes

** Volume increases 11 – 24%

Sample composition through time

■ Mergers ■ JVs and code shares



The Caveat (p. 157)

“Several characteristics and caveats of these findings should be borne in mind. Some conclusions are based on relatively small numbers of observations. Some do not permit standard statistical testing. In other cases causality itself may be ambiguous or two-way. And selection issues likely affect the data. The result is that individual conclusions should in some cases be treated with a certain amount of caution.

The Caveat (p. 157)

“Several characteristics and caveats of these findings should be borne in mind. Some conclusions are based on relatively small numbers of observations. Some do not permit standard statistical testing. In other cases causality itself may be ambiguous or two-way. And selection issues likely affect the data. The result is that individual conclusions should in some cases be treated with a certain amount of caution. That said, even where such caveats might apply, it should be noted that there is a remarkable degree of consistency and corroboration among these numerous findings. The data have been examined in myriad ways, with much the same conclusions emerging repeatedly. That fact provides support and reassurance about the essential findings of this project.”

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