

# Contemporary Challenges in the Practice of Competition Law and Economics

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# Outline

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- When and how to use economists?
- Role of economic analysis
- Effective collaboration between economists and non-economists
- Can we have too much economics?

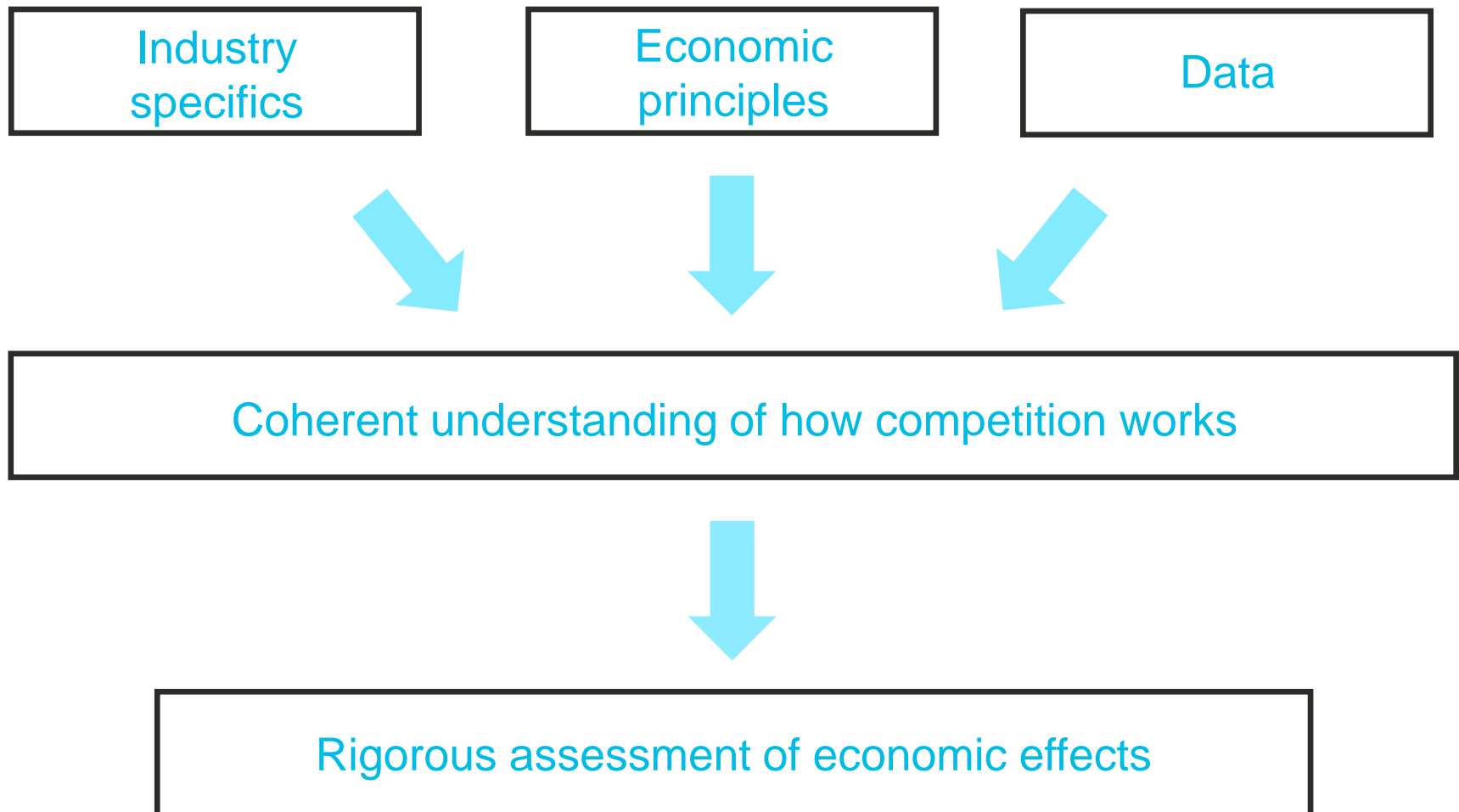
# When and how to use economists?

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- Economics becoming increasingly important in competition law (and technical)
  - Greater influence within authorities (e.g. role of CET)
  - Observed market evidence used to test economic hypothesis
- Economists are not required in many cases – several mergers raise no substantive competition issues
- Economists can help in a variety of ways, including:
  - Pre-notification analysis of regulatory risk
  - Pre-empting lines of investigation
  - Identify key arguments and evidence
  - Responses to information requests
  - Representation at oral hearings and “economist only” meetings
  - Reviewing analysis of confidential information in data rooms
  - Analysis of remedies
  - Assistance to third parties
- Early involvement can save a lot of time, money and heartache

## Role of economic analysis: Overview of the process

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# Effective collaboration

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- Integrated approach desirable
  - Combine analytical skills and understanding of competition economics with industry knowledge and commercial and legal perspectives/strategy
  - Contributions are complementary
  
- Communication is key
  - Ability to communicate technical, complex matters to an audience of non-economists
  - Economists operate within a legal framework!

# Can we have too much economics?

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- Economics is central to application of competition law...
- ... but application of “bad” economics can impair rather than improve the substantive assessment \*
- Good economics:
  - Economic model reflects the key features of the industry under investigation
  - Hypothesis can be tested with observed market evidence
  - Model predictions are consistent with observed market behaviour
- Risk of too much specialisation
  - Economics becomes disconnected from rest of the case
  - Detracts attention away from understanding how competition really works

\* See Simon Bishop (2013), Snake-oil with mathematics is still snake-oil: Why recent trends in the application of so-called “sophisticated” economics is hindering good competition policy enforcement, European Competition Journal

# Locations and contact

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