



# **ICN Merger Workshop 2018**

## **- BOS 8 : Conglomerate Mergers-**

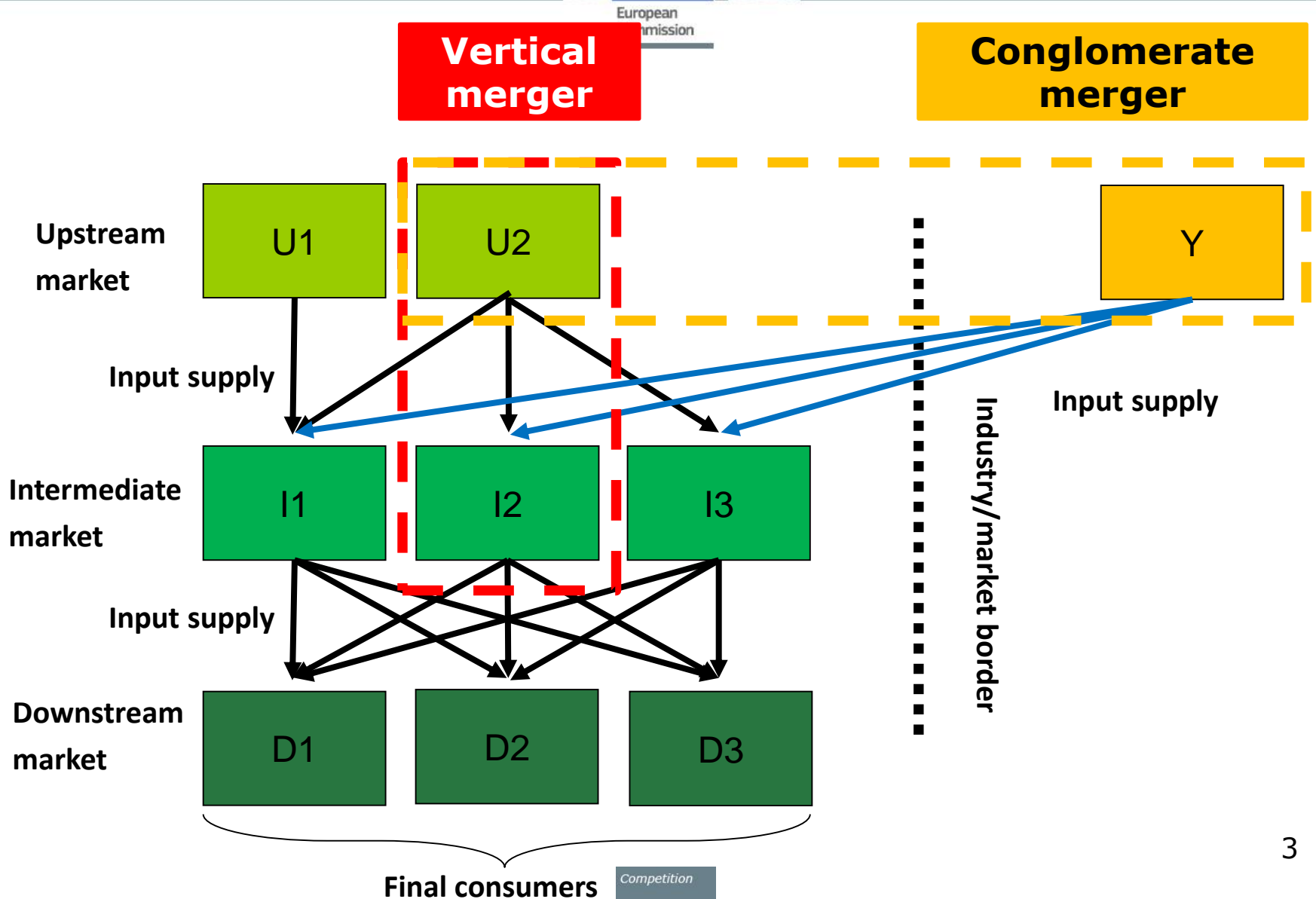
All presenters speak in my personal capacity and present their personal views.

## ➤ **Introduction**

## ➤ **Examples**

- Essilor/Luxottica
- Qualcomm/NXP
- Microsoft/LinkedIn

# Competitive landscape post merger



# Conglomerate mergers

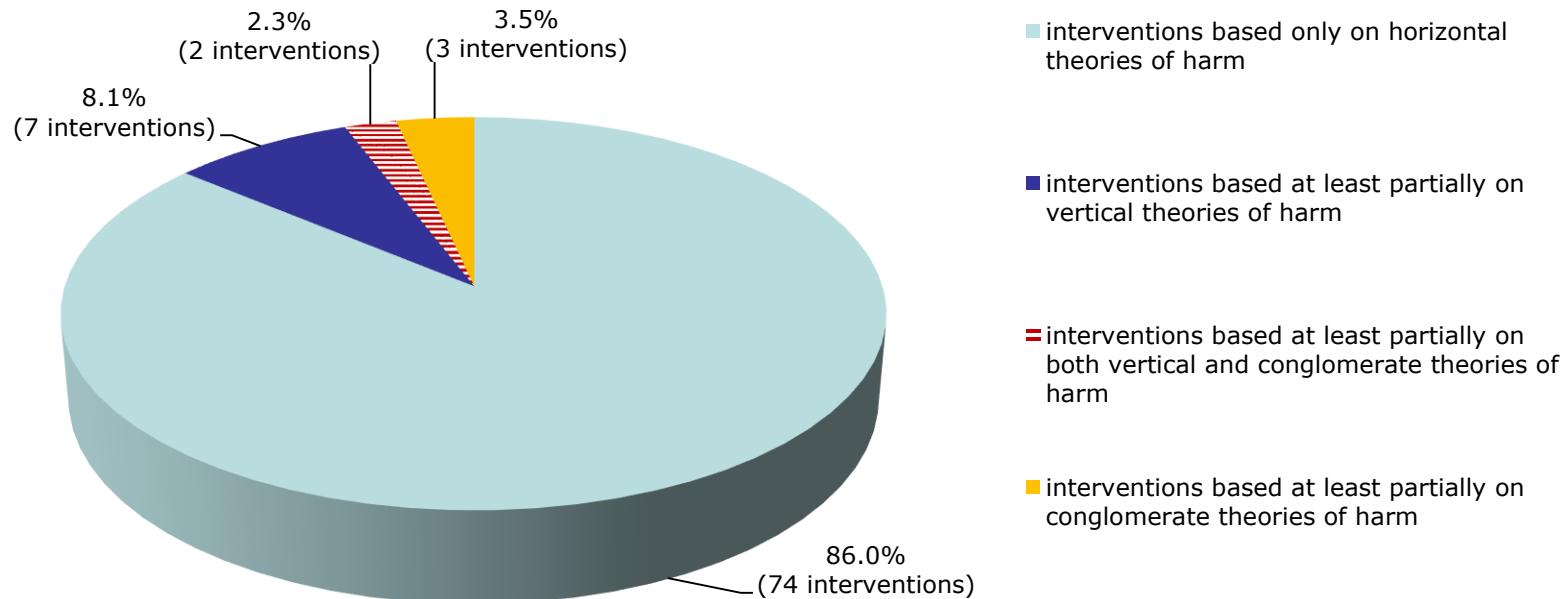
## Usually, positive effects (efficiencies)

- Economies of scope (combination or bundle of products)
- One-stop-shopping for customers (lower transaction costs)

## Rarely, negative effects

- Leveraging of market power
- Foreclosure

## EC decisional practice: share of interventions based at least partially on non-horizontal theories of harm (January 2015 - August 2018)



# Foreclosure by...

## Tying

- Purchaser of a good is required also to also purchase another good
- Technical tying/interoperability degradation vs. contractual tying

## Pure bundling

- Products are only available jointly in fixed proportions

## Mixed bundling

- Products are available separately, but discount for purchasing them jointly

# Assessing foreclosure

## Ability

- Significant market power in one market
- Large pool of common customers
- Legal framework and market structure

## Incentive

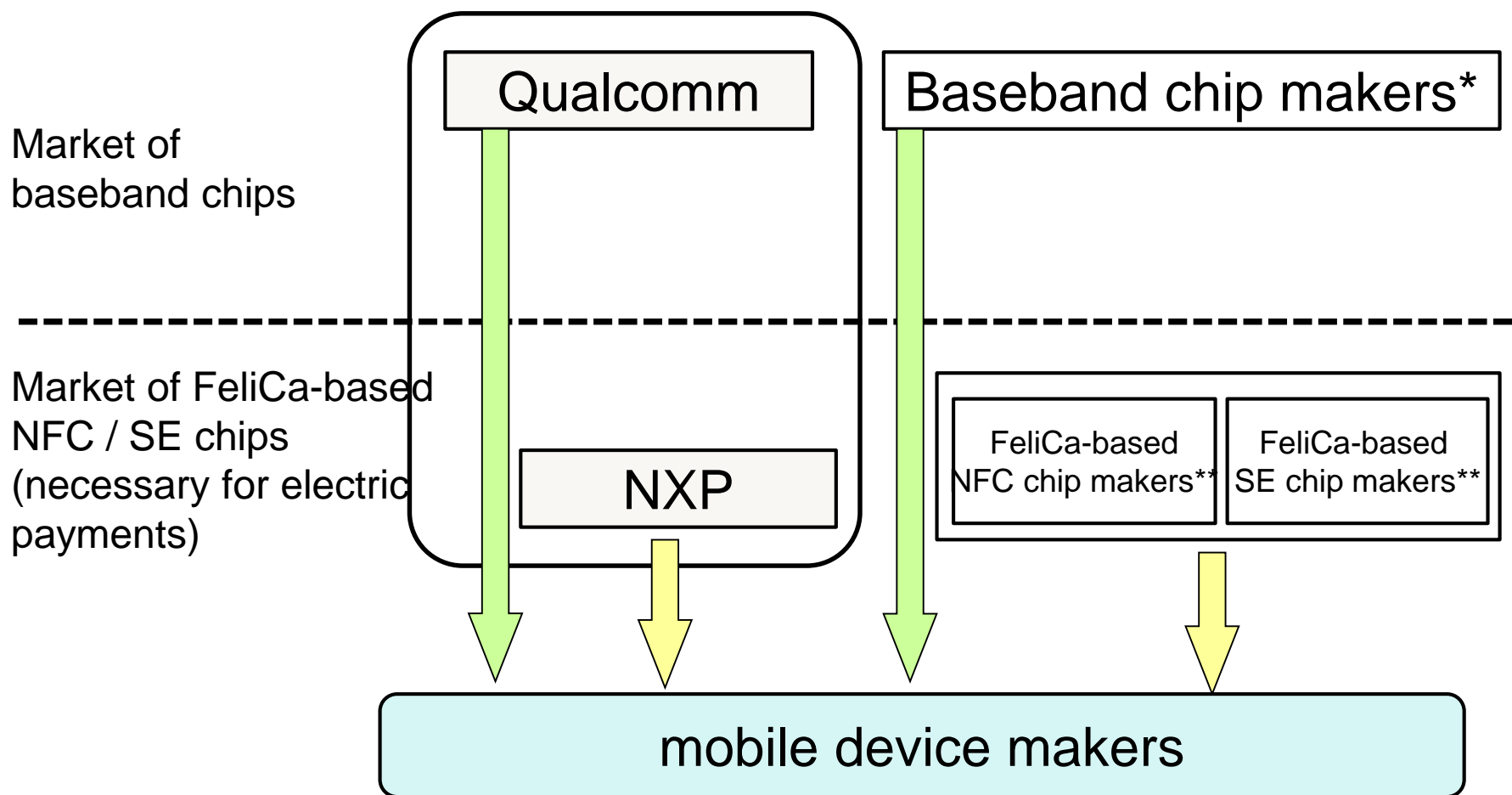
- Costs of the foreclosure strategy
- Benefits of the foreclosure strategy
- Is it profitable overall?

## Impact on effective competition

- Competitive landscape
- Competitors' ability to replicate the foreclosure strategy
- Customers' purchasing behaviour

- Merger Guidelines (revised in 2011)  
The JFTC examines the possibility of closure or exclusivity of each market.
- In the recent cases, the point was the parties' ability and incentive for tying of goods / services.
  - Qualcomm / NXP (2017)
  - Broadcom / Brocade (2017)
  - Abbott Labs. / St. Jude Medical (2016)
  - Intel / Altera (2015)





\*Baseband chip makers:(e.g.:MediaTek, Samsung, HiSilicon, Intel, etc.)

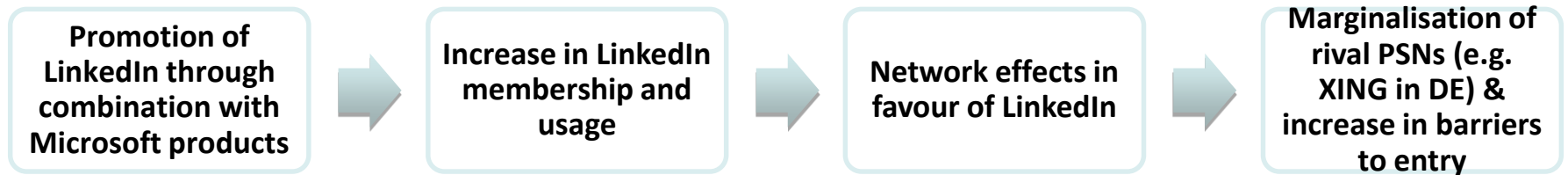
\*\*Felica-based NFC / SE chip makers:(e.g.: Sony, Toshiba, Samsung, Infineon(only manufacturing Felica-based SE chip.))

# **Essilor/Luxottica – conglomerate foreclosure effects dismissed**



- Two global leaders in the closely related industries of ophthalmic lenses and eyewear
- In-depth investigation to assess whether the merged company might be able to use its positioning vis-à-vis opticians to exclude competing suppliers from the markets, by linking sales of lenses and eyewear through practices such as bundling or tying
- Limited ability to foreclose (lack of market power) + limited incentives to engage in tying practices

# Microsoft/LinkedIn – Conglomerate foreclosure concerns of rival providers of professional social networks ("PSN")



2 main forms of combination of Microsoft products with LinkedIn :

1. Microsoft would pre-install LinkedIn application on Windows PCs
2. Microsoft would integrate LinkedIn features into Office and start denying rival PSNs access to office APIs



## 1. Windows pre-installation remedies

- Allow OEMs/distributors not to install LinkedIn
- No retaliation / exclusive agreements with OEMs/distributors
- Allow end user to remove LinkedIn

## 2. Office integration remedies

- Continue to make available Office Add-in Program and APIs to competing PSNs
- Allow add-ins from other PSNs to run independently of LinkedIn
- Allow end user to disable LinkedIn features

# Questions and discussions