

Discussant remarks for Leasing of
Intellectual property and similar products,
except copyrighted works
ISIC 77.40

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Topics

- Turnover
 - ▶ Industry versus Product based turnover measures
 - ▶ Identification of products

- SPPI
 - ▶ Pricing methods
 - ▶ Quality adjustment

Turnover

- Papers submitted:
 - ▶ Norway
 - ▶ Netherlands
 - ▶ Poland
 - ▶ France
 - ▶ Hungary
- All countries had direct links between the industry classification (NACE and country specific classification systems) and product classification (CPC, CPA)
 - ▶ No comparability issues
- Data obtained from either directly collected surveys, VAT registers, or a combination of both

Turnover (continued)

■ Publication

- ▶ Mainly at the 2-digit level - Rental and Leasing Activities
 - ▶ No country has turnover at the 6-digit product level
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- All countries indicated that leasing of intellectual property was growing steadily (especially among larger enterprises – noted by Norway)

Turnover (continued)

- All presentations at least hinted that the prevalence of this activity is **far greater** than the reported output of 7740 (includes businesses that are primarily engaged in the activity)
 - ▶ Product based turnover measures that include leasing of intellectual property from industries where this activity is not primary paint a more robust picture of the scope of this activity
- How do countries address significant revenues from businesses classified in other industries? Example: Fast Food restaurants that operate a network of franchisees often have the largest source of revenue as the wholesale of goods (food, cups, straws, wrappers, bags, and similar items that are sold with the franchise name and must be used by franchisees).
- How are intellectual property holding companies and similar entities that have no employment treated? What about those mentioned in the French paper that are set up for the purpose of tax arbitrage?
- Should there be distinctions for practicing entities and nonpracticing entities?

Products

- Are there more products that must be identified?
 - ▶ What is to be done with software? While software is often protected by copyrights, there are also hundreds of patents. This is particularly the case where a license is granted to use a part of an existing software product within another software product or perhaps allowing “compatibility” (with for example Microsoft or IOS)
 - ▶ What about revenues for naming rights? (stadiums and similar)
 - ▶ What about television and broadcast rights?

SPPI

- Papers submitted:
 - France
 - Hungary

No reliable price information is available in the other countries so no SPPI exists (overall CPI is used in some cases)

- Sampling: Use of Trade Union or Association databases
 - Does either country use Probability Proportional to Size sampling?

SPPI (continued)

■ Pricing

- Unit of measure: single license (agreement, trademark, brand, patent, etc.) or unit value
- Methods (depends on the terms of the agreement):
 - Fixed fee (single fee for use)
 - Easiest method to price but are there comparable patents over time, i.e. does the same transaction occur over time or do you have frequent substitutes where you must then quality adjust?
 - Commission rate (percentage fee x base rate)
 - Base rate is adjusted using the appropriate PPI for the good that is being patented
 - Combination of a fixed fee and a commission percentage
 - The total price includes both of these

SPPI (continued)

- The pricing methodology of adjusting the observed “model” price for patents in the base period by an appropriate index appears consistent with that of other leasing activities such as heavy equipment leasing (see Loranger and Gallais Voorburg paper, Vienna 2010)
 - France - adjusts annually through a manual process, it will be interesting to learn how the automated process planned for the future works
 - It is extremely important that the patent that is being adjusted matches in scope with the index that is chosen to adjust it
 - Becomes a larger constraint when SPPIs for specific products do not exist in countries to which patents are exported

What is used to adjust franchise agreements for retail? Retail CPI or average retail sales of similar stores?

SPPI (continued)

- What is used to adjust franchise agreements for retail? Could directly collect sales revenue from franchisee but if that is too burdensome or not possible, would NSOs use Retail CPI or average retail sales of similar stores?
 - From perspective of franchisor, the fee they receive over time should be reflective of revenue increases
- Should the fixed “entrance fee” to enter into a **new** franchise agreement be collected as a separate transaction from the % commission fee that would reflect price changes for **ongoing** franchise agreements?
 - Need information to weight these transactions appropriately if they are collected as separate transactions

SPPI (continued)

- Quality Issues
 - Substitutions when a similar patent is not being sold
 - How many of these cases have you experienced where you cannot show price change because you cannot compare new products to old ones?
 - Not a fair question maybe because the SPPIs are very new indexes
 - End of life – Patent becomes “less valued” and the price declines due to many factors (newer technologies)
 - I agree that you should not show price decline to zero or even large price changes
 - Would countries consider collecting the volume of patents sold monthly/quarterly and when there is a significant drop, use that as an indicator that there may be a new patent that should serve as a comparable substitute for the old one?

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