competitive mergers. Over the next 20 years, however, 14 other OECD members, the EC, and a number of developing countries instituted some form of merger control.[15]

This legislative activity was spurred by the high number and value of mergers in nearly all OECD member countries and studies documenting the high and increasing levels of market and overall concentration in many countries (to which mergers were shown to have contributed significantly) as well as by doubts about the economic benefits derived from many mergers.[16]

Merger control has traditionally, but not exclusively, been concerned with horizontal mergers and their effect on market power, that is, on the ability of a firm or a group of firms to raise and maintain prices above the perfectly competitive level without losing sales to existing competitors or potential rivals. Market power can only be defined with reference to a specific product and geographic market. Concern over market power is distinct from concern over corporate concentration, conglomerates, and vertical mergers.[17]

The "classic" method of measuring market power, pioneered in U.S. jurisprudence, has been to examine market share data and market structure. More recently, a general tendency has emerged, reinforced by economic analysis, to recognize that competition is a dynamic process which can be viewed in a number of ways, notably through:

i) prices;
ii) market structure;
iii) barriers to entry/contestability of markets;
iv) time (e.g., in the long run vs. the short run); and
v) innovation and quality.

Exclusive focus on static market shares or market structure could lead to erroneous conclusions on the potential anti-competitive effects of mergers.

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[15] Although the rate of adoption of competition laws by developing countries in the past decade has been rapid, most still do not have them. See Rajan Dhanjee, "Mergers and Developing Countries: Trends, Effects and Policies", World Competition, Volume 16, No.2, December 1992, p. 29.

[16] OECD, op cit, p.7. The number and value of mergers in developed countries since the end of the Second World war has tended to be cyclical with the peak of the most recent cycle likely being 1988 or 1989. See Rajan Dhanjee, op cit, pp.5-6.

[17] Vertical mergers involve suppliers not competitors. Vertical mergers may raise market power concerns in certain circumstances (e.g., elimination of a specific potential entrant, increasing barriers to entry, facilitation of collusion or interdependent behaviour).