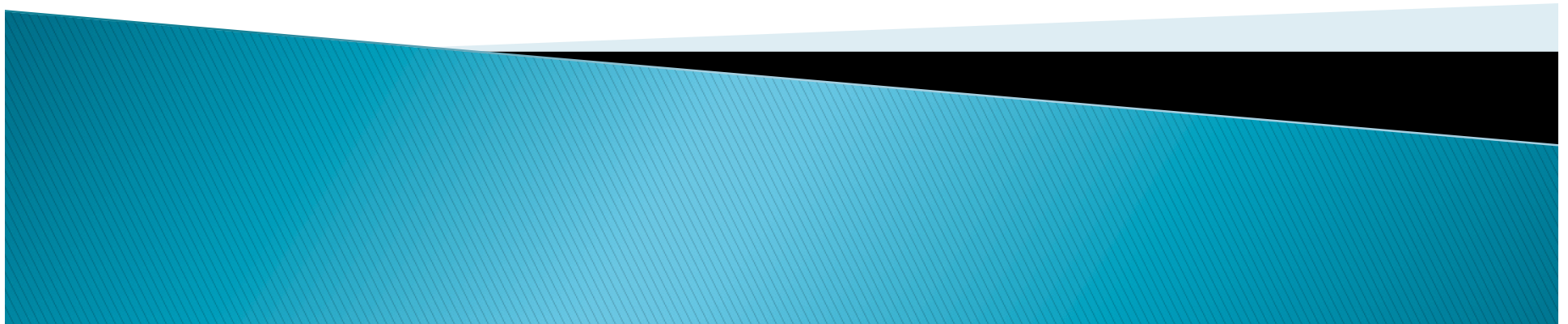


# A soft norm for reach of national competition law to acts off-shore?

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# Are there any rules?

- ▶ US
- ▶ EU
- ▶ China
- ▶ Korea



# A proposition for discussion of best practice/convergence

- ▶ In this globalized world, many acts and transactions have effects around the world. Nations may properly apply their competition laws to acts and actors abroad if those acts violate the nation's competition law and harm competition within their markets, subject to:
  - They may not apply the law or order remedies with harmful effects on actors or competition abroad that go beyond what is necessary to exonerate the national competition interest
  - The rule is subject to transparency, fair notice, hearing
    - non-discrimination, and non-duplication of fines



# What is a harmful effect on actors or competition abroad?

- ▶ 1. Re consensus antitrust rules, notably the rule against **cartels**:
  - Normally, where the cartel harms competition in the regulating jurisdiction,
    - the reach of the law to outside actors according to the jurisdiction's normal rules is reasonable as long as the due process standards are satisfied
- ▶ 2. Re non-consensus principles, as in abuse of **dominance and antitrust/IP interface**:
  - Nations should exercise restraint in ordering global relief; should refrain without a showing of importance to exonerate competition in their jurisdiction
- ▶ 3. Re “**industrial policy**” relief (beyond antitrust concerns)
  - Nations should justify the need for global effects

