



ABSTRACT

Theoretic approaches to the economic analysis of the law have become quite common. The recent raise of more behaviorally oriented economic and psychological research with an emphasis on econometrics and experimental economics, however, has also influenced the methodological toolbox of Law & Economics: Because of the behavioral focus, empirical methods seem a natural extension.

Introduction. The lecture will give a general introduction to the experimental approach to data collection. Methodically, legal experiments are similar to those of experimental economics or social psychology. Therefore, they share the same advantages and downsides, and the framework for conducting ‘sound’ experiments is identical. An overview of this framework will be presented.

Even though methodologically the experiments do not differ much across disciplines, they indeed do have very distinct research questions that often make reception of results of the other disciplines difficult, a problem not new to Law & Economics. To be able to contribute to legal research with this ‘new’ set of methods, experiments must be designed in such way that they can answer specific legal questions. We will therefore go through two examples of experiments with a specific focus on legal questions.

Sticky Rebates. The first example investigates the effect of targeted rollback rebate schemes on market foreclosure in consumer settings, a controversial issue in competition law, backed by rich economic models. In a lab experiment, we investigate whether and how target rebates impede rational switching of consumers from an incumbent to an outside option (e.g., market entrant). In a real trading problem, participants repeatedly buy tokens and can enter a target rebate scheme. Buying in a rebate scheme considerably reduces the likelihood that consumers switch to a higher-payoff outside option later. We conclude that target rebates might have an underestimated potential to foreclose consumer markets. The stickiness effect increases with increasing number of previous buying in the rebate scheme but not with the size of the rebate. *Prospect Theory* can partially account for these effects.

Skillful Gambling. The second example tackles a currently very controversial question of (German) public law, namely whether sports bets should be considered ‘skill games’ or ‘gambling’. While skill games are only subject to lean legal regulation, gambles are basically monopolized by the States. In a field experiment, we had participants bet on real soccer matches and measured their skill levels. We can show that skill does have a positive effect on performance under certain conditions, but that at the same time over-confidence and illusion of control increase with higher skill. We conclude that sports bets may indeed be considered dangerous, and that the doctrinal distinction between skill games and gambles does not seem to make sense from an empirical point of view.