Regulating the Digital Sphere: Recent Reports and Proposals

11:10 - 12:00
Regulating the Digital Sphere

• Review of significant recent studies and investigations across the globe including the new inquiry into the Internet of Things
• Proposals for the new Competition Law Tool and the Digital Services Act
• Does the digital sphere require regulation or are classical competition rules sufficient?
• The future of regulation including proposals for new platform regulation in Germany and proposals for a Digital Services Act
• The role of self-regulation
• What lessons can be learnt from recent cases about how the Commission is approaching the digital sphere?

Participants

Moderator: Axel Gutermuth - Partner, Arnold & Porter
Kaye Scholer LLP
Nicolas Petit - Professor of European Competition Law, European University Institute
Christian D’Cunha - Cybersecurity and Digital Privacy, DG Connect, European Commission
Oliver Bethell - Director, EMEA Competition, Google

Big Data: Exploring the Challenges and the Authorities’ Responses to Them

12:00 - 12:50
Big Data

• How are the Competition Authorities in France, Germany and the Netherlands approaching data?
• How is the Commission approaching data?
• Lessons learnt from Amazon, Google, Facebook and Spotify
• Implications of COVID-19 crisis:
  • Proliferation of data during the crisis: how is it used?
  • How do the consumers and regulators view data?
  • Tracking devices
• Do we need block exemption regulation for data?
• Access to data for third parties: is data an essential facility
• Exploring the intersection of competition law, data privacy and consumer law including whether there is a need for more joined up enforcement
• A look at specific concerns for health data

Participants

Moderator: Ingrid Vandenborre - Partner, Skadden, Arps, Slate, Meagher & Flom LLP
Sebastian Wismer - Head of Digital Policy Unit, Bundeskartellamt
Bart Noé - Senior Enforcement Official, Authority for Consumers and Markets (ACM)
Elodie Vandenhende - Rapporteur, Autorité de la Concurrence
### e-Commerce: Vertical Agreements, Excessive Pricing and Online Advertising

**Platforms & E-Commerce**
- Review of the Vertical Block Exemption Regulation: what is on the horizon?
- A look to CMA’s enforcement in e-commerce and what enforcement is likely to look like post-Brexit
- Dual distribution: when is a vertical a horizontal?
- Most Favoured Nation Clauses (MFNs)
- Geoblocking regulation: how is it working in practice?
- Excessive pricing concerns during COVID-19 crisis
- Review of online advertising developments
- Practical considerations for compliance

**Participants**
- **Moderator**: Clemens Graf York von Wartenburg - Partner, Dechert
- **Eva Krogh**: EMEA Legal Director, Veritas Technologies (UK) Limited
- **Nikolaus Lindner**: Director GR Germany and EEC, eBay
- **Åsa Ericson Hedström**: Vice President Legal, Fiskars Group

### The Role of Data and Non-Price Factors in Merger Control

**Merger Control**
- Review of recent significant mergers including Amazon/Deliveroo
- Comparison of approaches by national competition authorities including CMA and FCO
- Role of big data and innovation in mergers
- Killer acquisitions and proposals to reverse the burden of proof in Germany
- Economics of digital era mergers and killer acquisitions
- Theories of harm: do they need to be updated to the new digital world?
- Evaluation of recent report proposals for review of merger control

**Participants**
- **Tone Oeyen**: Partner, Freshfields Bruckhaus Deringer LLP
- **Norbert Maier**: Managing Economist, Copenhagen Economics
- **Michael Kefi**: General Counsel, Stuart & Pickup

### AI, Algorithms and Collusion

**AI, Algorithms & Collusion**
- Algorithmic cartels: what are they?
- Where should you draw a line between cartels and adapting behaviour to competitors
- Practical pointers

**Participants**
- **Tobias Kruis**: Senior Counsel - Competition Law, Tech Data
- **Thibault Schrepel**: Stanford University Faculty Associate, Assistant Professor, Utrecht University

### Chair’s Closing Commentary and Close of Focus Day

**Chair’s Closing Commentary and Close of Focus Day**
- **17:40 - 17:50**

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**Advanced EU Competition Law, Brussels**
**Main Conference: 24 & 25 November 2020 / Competition Law in the Digital Era**
**Focus Day: 23 November 2020**
**Online Conference**
**Delivered Live (CET Time) & On-Demand Afterwards**

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**Law@informaconnect.com**
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Networking: Welcome & Registration
08:00 - 08:10

Brexit & Competition Law: Where Are We Now?
08:10 - 08:50
InFocus Breakfast Briefing A - Brexit & Competition Law: Where Are We Now?

• Preparing for Brexit: where are we now?
• What will be the future relationship between the CMA and the Commission and NCAs?
• CMA: is it establishing a new role for itself?
• Impact on ongoing cases
• The future of pan European filings
• Repercussions for state aid

Participants
Ros Kellaway - Partner & Global Co Chair Competition and Trade, Eversheds Sutherland

Chair’s Welcome
09:00 - 09:10

Participants
Ian Forrester, Judge General Court of the EU 2015 - 2020

A View from the European Commission
09:10 - 09:50
Policies, Enforcement & Investigations

Participants
Pierre Régibeau - Chief Economist, DG Competition, European Commission

Major Events and Policy Issues in EU Competition Law 2019-2020
09:50 - 10:50
Policies, Enforcement & Investigations

• Legislative developments: Review of EC Vertical and Horizontal Restraints Block Exemptions (including online and sustainability issues), and the EC Market Definition Notice
• European Courts cases: including Otis (competition damages claims); Generics (pay for delay); Czech Railways (legality of dawn raids); Budapest Bank (Hungarian MiFIs, restriction by object assessment) and cartel appeals (Power Cables; Battery recycling)
• EC decisions: including NBC Universal, Transgaz and Melia
• COVID-19 and EU Competition law: Antitrust aspects of cooperation and radical demand changes
• Policy
  • Digital competition: After the reports?
  • Competition, trade and globalisation: After COVID-19?
  • EU Communication on Industrial Policy
• Mergers overview

Participants
John Ratliff - Partner, Wilmerhale

Networking: Morning Coffee Break
10:50 - 11:10
Policies, Enforcement & Investigations

Responding to COVID-19 Crisis
11:10 - 12:00
Policies, Enforcement & Investigations

• How have the authorities responded to the pandemic?
• Is there a more permissive approach to competition law?
• Are comfort letters a good tool for competition authorities
• How will the economy emerge and how will competition law develop as a result?
• Impact on cooperation and merger control
• Procedural consequences
• What will be the long-term consequences of the crisis on competition law?

Participants
Moderator: Julia Woodward-Carlton - Partner, Eversheds Sutherland
Konrad Ost - Vice-President, Bundeskartellamt
Andrea Pezzoli - Director General, Competition, Italian Competition Authority
Rikard Jermsten - Director General, Swedish Competition Authority
Ioannis Lianos - President, Hellenic Competition Commission
Jacques Steenbergen - Director General, Belgian Competition Authority

Vertical Restraints, Distribution & Pricing: Review of Recent Developments
12:00 - 12:40
Policies, Enforcement & Investigations

• The future of the Vertical Block Exemption Regulation: what are the Commission's findings so far and what are the likely proposals
• Challenges in distribution including repercussions of COVID-19 crisis
• Review of recent enforcement trends across Europe
• E-commerce challenges
• Current enforcement approaches to RPM: what lessons can be learnt
• Dual distribution: when is a vertical relationship horizontal?

Participants
Andreas Eberhardt - Antitrust Lead Legal Counsel, Richemont
Malgorzata Urbanska - Partner, CMS
Review of Horizontal Co-operation Block Exemptions and Guidelines: What is on the Horizon?

12:40 - 13:20
Horizontal Restraints & Vertical Block Exemptions

- Horizontal Block Exemption Regulations: where are we now?
- What should the rules be for the new digital realities?
- Cooperation and sustainability: what is permissible?
- Data sharing in horizontal collaborations
- Verticals and horizontals: is the old distinction still appropriate?
- Information exchange concerns
- Joint bidding

Participants
Michael Bauer - Global Head of Competition & EU Group, CMS
Camilla Holtse - Associate General Counsel - Head of Competition Law & Policy, Maersk Line

Networking Extended Lunch
13:20 - 14:20

Excessive Pricing: Review of Recent Developments
14:20 - 15:00
Pricing & Vertical Restraints

- Price gouging practices in time of COVID-19 crisis
- Review of price monitoring by competition authorities
- What lessons can be learnt from recent cases including Aspen

Participants
Pedro Caro De Sousa - Expert, Directorate for Financial and Enterprise Affairs, OECD Competition Division
Wolf Sauter - Expert, Netherlands Authority for Consumers and Markets (ACM)
Andrew Groves - Antitrust Project Director, Competition and Markets Authority (CMA)
Moderator:: David Hull - Partner, Van Bael & Bellis

Multi-Sided Markets & Platforms
14:20 - 15:00
Multi-sided Markets, Platforms & Big Data

- Review of significant recent studies and investigations
- What are the new platform rules in Germany?
- Classic competition law instruments vs ex ante regulation
- Digital Services Act: where are we now?
- Proposals for a Platforms Sector Inquiry: what will it focus on?

Participants
Fabian Badtke - Partner, Noerr
Sophie Thomson - Legal Director, Competition & Regulatory Law, Legal, Risk and Equivalence, Openreach
Robert van Mastrikt - Senior Competition Counsel, Booking.com International B.V.

Information Exchange: Practical Considerations
15:00 - 15:40
Collaboration, Cooperation & Information Exchange

- Online platforms and information exchange
- Managing trade associations and industry meetings
- Sharing information in transaction
- Price signalling
- What practical lessons can be learnt from recent cases including Amazon investigation
- Designing effective firewalls

Participants
Robert Schulz - Head of Legal - Sales and Marketing, BSH Hausgeräte GmbH
Kjersti Bjerkebo - Chief Compliance Officer, Panasonic Europe BV

Moderator:: Stella Sarma - Special Counsel, Cooley

Omnichannel Distribution: The Only Way Forward?
15:00 - 15:40
Pricing & Vertical Restraints

- How has COVID-19 changed online distribution?
- Review of the Vertical Block Exemption Regulation: what does the industry want to see reformed?
- Selective distribution: what is permissible?
- What lessons can be learnt from recent enforcement?
- Implications for compliance

Participants
Emma Trogen - Deputy Director General – Head of Legal Department, Cosmetics Europe
Anselm Rodenhausen - Lead Antitrust & Distribution Law, Zalando SE
Edzard Offers - Lead Competition Counsel EMEA, Nike

Moderator:: Stephanie Pautke - Founding Partner, Commeo LLP

Networking: Afternoon refreshments
15:40 - 16:00
State Aid: Responding to COVID-19 Crisis and Other Significant Developments

16:00 - 16:40
State Aid
- Responses to COVID-19 crisis: review of the Temporary Framework and national schemes
- Procedural developments
- What is available for SMEs and what counts as an SME?
- Rescue and restructuring aid
- Sectoral analysis: what aid is available for specific sectors including aviation
- Concerns with the new schemes: buying failing firms, zombie companies, non COVID-19 state aid
- Looking to the future: what are the likely long-term repercussions of the crisis and state aid for the economy?
- Review of other key developments including the Green Deal and tax and state aid cases

Participants
Zoltán Bartucz - Head of Unit, Hungarian State Aid Monitoring Office
George Peretz - Barrister, Monckton Chambers & Law Library of Ireland

Competition Law in the Digital Sphere: Big Data, Innovation & Artificial Intelligence

16:40 - 17:20
Competition Law Challenges in the Digital Sphere
- Update on significant recent cases and studies across the globe
- COVID-19 crisis: repercussions for big data, dominance and privacy
- Efficiency vs harm: has the approach changed during COVID-19 crisis?
- The future of regulation including proposals for new platform regulation in Germany
- Data and dominance including remedies in the Google shopping case
- Update on online advertising
- Innovation and other forms of non-price competition
- Algorithmic cartels: where is the line drawn between cartels and adapting behaviour to competitors?
- Are digital markets more challenging than other from an economic perspective?
- The economics of data and market power: is there correlation?

Participants
Alec Burnside - Partner, Dechert
Carel Maske - Director Competition EMEA, Microsoft

Article 102: Principles, Decisions and Practice

17:20 - 18:00
Article 102 Developments
- Defining markets
- Discriminatory and excessive pricing
- Price gouging
- Exclusionary conduct after Intel
- Rebate systems
- Interim measures after Broadcom case

Participants
John Kallaugher - Retired Partner, Latham & Watkins

Chair’s Closing Commentary and Close of Main Conference Day One

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## Schedule

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**Advanced EU Competition Law, Brussels**


Online Conference

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Networking: Welcome & Registration
08:45 - 09:00

Chair's Welcome
09:00 - 09:10
Participants
Simon Holmes - Judge, UK Competition Appeal Tribunal & Visiting Professor, Oxford University

Cartels: Lessons from Recent Investigations
09:10 - 10:10
Participants
Johan Ysewyn - Partner, Covington & Burling LLP
Annemarie Ter Heegde - Policy Officer, Antitrust Case Support and Policy (A1), DG COMP, EU Commission

Private Enforcement & Follow on Damages: Practical Strategies
10:10 - 11:10
Participants
Oliver Gannon - Economist, Deutsche Bahn AG
Dominique Speekenbrink - Chief Counsel Litigation, ABB
Nicholas Khan - QC, Legal Services, European Commission
Daniel Beard QC - Barrister, Monckton Chambers

Networking: Morning Break
11:10 - 11:40
Cartels & Private Enforcement

Merger Control: Review of Recent Developments
11:40 - 12:30
Participants
Miranda Cole - Partner, Covington & Burling LLP

Multi-jurisdictional Mergers
14:15 - 15:00
Participants
Saar Dierckens - Senior Counsel Competition, Siemens AG
Nikhil Patel - Chief Legal Officer - Asia, Middle East & Africa, Global Anti-Trust Counsel, Upfield
Benedikt Ecker - Compliance Officer, Thyssenkrupp
Moderator: Céline Darrigade - Head of Antitrust, Thales

Networking: Extended Lunch
13:00 - 14:15

The Interface Between IP & Competition Law
14:15 - 15:00
Participants
Elissavet Kazili - Senior Legal Counsel, Competition, Nokia
Ari Laakkonen - Partner, Powell Gilbert
Steve Faraji - Senior Manager Patents, Audi AG
Ensuring Credible Compliance: Practical Workshop
14:15 - 15:00
Compliance & Sustainability
- How to design credible global competition compliance programmes
- Best practice in implementing, maintaining and updating compliance programmes
- How are national competition authorities viewing compliance?
- Digitalisation of compliance: AI, forensics and contract review

Participants
Miriam Van Heyningen - Senior Antitrust Counsel, Shell
Manon Bovens - Senior Expert Counsel, VodafoneZiggo
Ben Graham - European Legal Director, Anheuser-Busch InBev
Moderator: Anne Riley - Independent Consultant, Antitrust Compliance and Ethics

Foreign Direct Investment & Industrial Policy Concerns
15:00 - 15:45
Merger Control
- Review of FDI Regulation
- Approaches by member states including European Champions policy
- Effect of COVID-19 crisis on protecting key strategic assets
- Competition law and industrial policy
- Implications for multi-jurisdictional mergers

Participants
Moderator: Jens Peter Schmidt - Partner, Noerr LLP
Ief Daems - Legal Director Antitrust, Cisco
Michael Hoffmann - Chief Commercial Counsel, NXP

Disruptive Innovation & Competition Law
15:00 - 15:45
Innovation, IP & Competition Law
- How to define markets in innovation?
- What are the theories of harm?
- What are the challenges for traditional competition law tools and how should they be addressed?
- Considerations in mergers, including how national competition authorities are approaching killer acquisitions
- Innovation in the pharma sector

Participants
Moderator: Laurence Bary - Partner, Dechert
Antonio Capobianco - Senior Competition Expert, OECD
Frank Qi - Senior Director, Legal Counsel – Antitrust, Qualcomm
Matthew Johnson - Partner, Oxera Consulting LLP

Sustainability and Competition Law
15:00 - 15:45
Compliance & Sustainability
- Review of the Green Deal
- Cooperation and sustainability: what is permissible?
- Should competition law be more flexible to address the challenges of sustainability?
- The role of state aid in the European Green Deal
- What is possible to support energy transition and initiatives? Redress process

Participants
Ian Rose - Vice-President, Compliance, Volvo Trucks
Morgan Frontczak - Senior Antitrust Counsel, Shell
Maria Kleis-Walravens - Head of Energy Systems and State Aid, Client Earth NGO
Moderator: Dirk Middelshulte - VP Global General Counsel Competition, Unilever

Networking: Afternoon Break
15:45 - 16:00

Merger Control in Practice: Best Practice
16:00 - 17:00
Merger Control
- Managing the merger process including impact of COVID-19 crisis on procedures
- Preparation, evidence collection and how best to deal with information requests
- The rising importance of Foreign Direct Investment and public interest considerations
- CMAs approach to network effects and theories of harm
- What is on the horizon post Brexit?
- Multijurisdictional mergers: practical pointers including how to manage conflicting decisions from different authorities

Participants
Moderator: Axel Schulz - Partner, White & Case LLP
Susan Hinchliffe - Global Executive Counsel, Competition Law & Policy, General Electric
Hugh Hollman - Lead Antitrust Counsel, Saudi Aramco
Melina Pappa - Senior Manager, Competition Policy, Liberty Global
Gönenc Gürkaynak - Founding Partner, ELIG Gürkaynak Attorneys-at-Law
Maria Duarte - Assistant Director, Mergers, Competition & Markets Authority (CMA)

The European Commission's Investigative Toolkit
17:00 - 17:40
Dawn Raids
- Preparing a company for a dawn raid
- Practical tips for dealing with dawn raids
- Handling requests for information
- ECN+ and minimum standard of investigative tools
- What lessons can be learnt from Czech Railways

Participants
Alexander Israel - Partner, Cooley

Chairs Closing Remarks & Close of Conference
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<td>09:10</td>
<td>09:10 - Cartels: Lessons from Recent Investigations</td>
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<td>10:10 - Private Enforcement &amp; Follow on Damages: Practical Strategies</td>
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<td>11:00</td>
<td>11:10 - Networking: Morning Break</td>
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<td>11:40 - Merger Control: Review of Recent Developments</td>
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<td>12:30 - The Economics of Merger Control</td>
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<td>14:15 - Ensuring Credible Compliance: Practical Workshop</td>
<td>14:15 - The Interface Between IP &amp; Competition Law</td>
<td>14:15 - Multi-jurisdictional Mergers</td>
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<td>15:00 - Sustainability and Competition Law</td>
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<td>15:00 - Disruptive Innovation &amp; Competition Law</td>
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<td>16:00 - Merger Control in Practice: Best Practice</td>
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<td>17:40 - Chair’s Closing Remarks &amp; Close of Conference</td>
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<td>17:00 - The European Commission’s Investigative Toolkit</td>
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