UK Competition Law 2020

27th February 2020 - St James’ Court Hotel, London

An exploration of evolving CMA enforcement practices, concurrent regulation, the implications of Brexit, and topical class action cases.

09:00-09:10 Chair’s Opening Remarks (10 mins)

Bill Batchelor, Partner, Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates

Policy Updates

09:10-09:50 - CMA Keynote Address: What Will UK Competition Law Look like Post-Brexit? (40 mins)

▪ What lies beyond the Brexit transition?
▪ What will be the CMA’s role in the new regulatory landscape?
▪ Potential policy changes: what are the implications of Lord Tyrie’s letter to the Secretary of State for Business, Energy, & Industrial Strategy?
▪ Is competition enforcement and merger control fit for the digital age?

Sarah Cardell, General Counsel, CMA

09:50-10:20 - Implications of Brexit on State Aid (30 mins)

▪ What will be the UK’s approach?
▪ How will state aid work at the national, rather than supranational, level: a role for the CMA?
▪ Changes between the withdrawal agreements from the May to the Johnson administration: the question of scope.
▪ The future dynamics of state aid regulation between Northern Ireland and the rest of the UK.

Professor Suzanne Rab, Barrister, Serle Court
Litigation & Enforcement

10.20-11.00 - Competition Investigation: A Paradigm Shift? (40 mins)
- Increasing prohibitions and the CMA’s toughening stance: what will this mean for the future?
- Director disqualification:
  - An overview of recent cases
  - The right to defence
- Insights from the Royal Mail appeal: what are the parameters for how a company abuses its position?
- The in-house view: what does harsher enforcement mean for you?

Josh Holmes QC, Barrister, Monkton Chambers

11:00-11:20 Morning Coffee Break (20 mins)

11:20 -12:05 - Competition Litigation: Lessons from Recent Cases (45 mins)
- An overview of recent collective action cases and lessons to be drawn:
  - Merricks/Mastercard
  - The “Trucks Cartel”
  - The Forex Trading Scandal
- The role of funding in litigation.

Richard Murgatroyd, Partner, RBB Economics
Sarah Abrams, Barrister, Brick Court Chambers
Bruce Macaulay, Partner, Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates

12:05-12:55 - Concurrent Competition Law Enforcement (50 mins)
- The view from the CMA: How efficient is concurrent regulation?
- Lessons for the future: what is the optimal way to facilitate consumer welfare?
- An analysis of concurrent enforcement from the Payment Systems Regulator, FCA and Ofgem.

Carole Begent, General Counsel and Head of Regulatory and Competition Enforcement, Payment Systems Regulator
James Lambert, Director of Sector Regulation, CMA
Jonathan Spence, Legal Director, Ofgem
Karman Gordon, Head of Competition Enforcement & Strategy, FCA
12:55-13:55 - Networking Lunch (60 mins)

Managing Horizontal & Vertical Risks

13.55-14:45 - Merger Control Panel (50 mins)

- There has been a significant increase in the number of phase II mergers this year: what are the ramifications for merger control?
- Is the CMA becoming more aggressive in procedural enforcement on mergers? An overview of recent infringement cases:
  - Misinformation (Article 109 breaches): Rentokil, Farelogix, AL/KO.
  - Hold separate orders: Electro-Rent, JCA, Nicholl’s, PayPal.
- Merger Control post-Sainsbury’s/ASDA: how appropriate was the economic analysis?
- Lessons from recent appeals: Tobii / Smartbox, Ecolab.

Sorcha O’Carroll, Director of Mergers, CMA
Matthew O’Regan, Barrister, St John’s Chambers
Davina Garrod, Partner, Akin Gump Strauss Hauer & Feld LLP

14:45-15.30 – In-House Perspectives on Information Exchange (45 mins)

- Where do the parameters of information exchange between current or potential competitors lie?
- How can information exchange in vertical agreements – such as supply chains – breach competition law?
- Balmoral Tanks case: what counts as commercially sensitive information?
- How can the risks be minimised?

Philipp Girardet, Partner, Wilkie Farr & Gallagher LLP
Natasha Franklin, Competition Counsel, British Airways
Matthew Cartwright, Senior Competition Counsel, British American Tobacco
Arabella Hinton, Head of Competition & Regulatory Affairs, Telefonica UK (O2)

15:30 -15:50 - Afternoon Coffee Break (20 mins)
Digital Competition

15:50-16:40 - The Furman Review and the Digital Economy (50 mins)

- The Furman Review: How does UK competition law apply in digital space, and what is the strategy for the future? Has Furman hit the right points?
- An overview of the CMA’s Online Platforms and Digital Market Study Report: what will be the practical implications?
- Smart Data: is the regulatory landscape becoming harsher for digital platforms? Are regulators overstepping the mark?
- Regulatory futures and potential divergence between the UK and Europe.

Manish Das, Head of Competition Law, Lloyds Banking Group
Stephen Lewis, Partner, RBB Economics
Sandra Potlog, Competition Counsel, Telefonica UK (O2)

16.40-17.15 – Thinking about Big Data (35 mins)

- How has user data become relevant in competition law?
- How to treat data as an economic asset and recent proposals for mandating data sharing.
- How do you strike the balance between individual rights and effective competition?

Rikke Riber Rasmussen, Economist, Google
Gerry Facenna QC, Barrister, Monkton Chambers

17:15-17:25 - Chair’s Closing Remarks (10 mins)