

DYNAMIC COMPETITION IN DYNAMIC MARKETS: *A PATH FORWARD*

October 24, 2019
Brussels



Post-Conference Summary



Program



- 8:30am - 9:00am **REGISTRATION & BREAKFAST**
- 9:00am - 9:15am **INTRODUCTORY REMARKS**
Marianela LÓPEZ - GALDOS, Global Competition Counsel, CCIA
- 9:15am - 10:30am **MERGERS IN THE DIGITAL SPACE: IMPACT ON INNOVATION**
Adina CLAICI, Director, Copenhagen Economics
Aleksandra BOUTIN, Founding Partner, Positive Competition
Pedro GONZAGA, Competition Expert, Competition Division, OECD
Robert KLOTZ, Partner, Antitrust & Competition, Sheppard Mullin
Moderator: Ben VAN ROMPUY, Assistant Professor of Competition Law, Europa Institute, Leiden Law School
- 10:30am - 10:45am **COFFEE BREAK**
- 10:45am - 12:00pm **BIG DATA: UNDERSTANDING AND ANALYZING ITS COMPETITIVE EFFECTS**
Thomas KRAMLER, Head of Unit, e-Commerce & Data Economy, DG Comp, European Commission
Justus HAUCAP, Director, Düsseldorf Institute for Competition Economics
Bill BATCHELOR, Partner, Antitrust/Competition, Skadden, Arps, Slate, Meagher & Flom
Alexander ITALIANER, Senior International Policy Advisor, Arnold & Porter
Moderator: Marianela LÓPEZ-GALDOS, Global Competition Counsel, CCIA
- 12:00pm - 1:00pm **FIRESIDE CHAT WITH...**
Jacques STEENBERGEN, President, Belgian Competition Authority
William KOVACIC, Director, The GWU Competition Law Center
Moderator: Lewis CROFTS, Editor-In-Chief, Mlex
- 1:00pm - 1:45pm **LUNCH**
- 1:45pm - 3:00pm **REGULATION OR COMPETITION IN THE DIGITAL SPACE: WHAT'S BEST FOR CONSUMERS?**
Rene AUGUSTINE, Deputy Assistant Attorney General, International and Policy, US DOJ
Jonathan BAKER, Research Professor of Law, Washington College of Law, American University
Georgios MAVROS, Public Policy & Government Relations EMEA, Google
Nicholas BANASEVIC, Head of Unit, IT, Internet & Consumer Electronics, DG Comp, European Commission
Moderator: Assimakis KOMNINOS, Partner, White & Case
- 3:00pm - 3:15pm **COFFEE BREAK**
- 3:15pm - 4:30pm **ONGOING CONSULTATIONS**
Maria COPPOLA, Counsel for International Antitrust, US FTC
Joaquín LÓPEZ VÁLLES, Director, Department for the Promotion of Competition, CNMC
Henri PIFFAUT, Vice President, French Competition Authority
Will HAYTER, Senior Director for Policy, Advocacy & International, CMA
Moderator: Jacques STEENBERGEN, President, Belgian Competition Authority
- 3:15pm - 3:30pm **COCKTAIL RECEPTION**



Sessions



Introductory Remarks

Mariana López-Galdos
CCIA

Mariana López-Galdos opened proceedings with some remarks introducing the day's topics, taking the example of Dennis Jennings, the Irish physicist, and academic, whose work with the US public sector body – the national science foundation – laid the foundation for what would become ARPANET, and then the Internet. In short, the Internet raises public policy considerations while raising clear opportunities for the private sector. It is in this spirit – the interaction between the public and private sectors – that today's issues must be seen.



Session 1

MERGERS IN THE DIGITAL SPACE: IMPACT ON INNOVATION



Speakers:

Adina CLAICI (Director, Copenhagen Economics); Aleksandra BOUTIN (Founding Partner, Positive Competition); Pedro GONZAGA (Competition Expert, Competition Division, OECD); Robert KLOTZ (Partner, Antitrust & Competition, Sheppard Mullin)

Moderator:

Ben VAN ROMPUY, Assistant Professor of Competition Law, Europa Institute, Leiden Law School

What Is A "Dynamic" or "Digital" Market?

The session began with a conceptual question: "what is a digital space?" Despite the recent proliferation of reports, the Furman Report, the Crémer Report, etc., the notion of a "digital space" remains elusive.

Pedro Gonzaga distinguished between "digital" and "dynamic" markets. Based on past OECD reports, digital markets include e-commerce, booking websites, and the purchase of "pure" digital products, but also supporting services such as payment services, multi-sided platforms, ad platforms, and

so on. Gonzaga explained that not all "dynamic" markets are "digital", and drew an analogy with "static" industries such as raw materials or basic inputs such as cement, etc.

Aleksandra Boutin, noted that the novelties of mergers in "digital" markets include "killer" acquisitions (e.g., in pharmaceuticals, or for digital products or services). Pharmaceuticals markets raise distinct considerations, due to the need for clinical trials, market authorizations, and so on. In such markets, the acquisition of a new molecule by an established player may have pro-competi-

tive effects. Similarly, in digital markets, while there may also be synergies, there is less of a clear-cut need for an incumbent to purchase a startup as in pharmaceuticals.

Digital markets are much more versatile, and it is not always clear whether or not a product will become substitutable. For example, in the Facebook/WhatsApp merger, the Commission may have missed out on the direct threat that WhatsApp may have posed to Facebook (e.g., by entering social networking). Nor did the Commission necessarily take proper account of the possibility of Facebook integrating WhatsApp's data to its existing offering. Finally, Ms. Boutin underlined the need to consider the strong support available from financial markets (as opposed to an incumbent) in order to successfully bring a product to market.

Adina Claiici, underlined that "digital" markets are different from "traditional" markets (even if they have digital aspects). It appears that there is under-scrutiny of mergers by tech "giants" in national jurisdictions and elsewhere (but it is too early to tell whether this is in fact underenforcement). Network effects are a key factor of competition in such markets, particularly as users tend to prefer to "single home." It is hard to balance the risks of network effects and the efficiencies for consumers from single homing. The UK appears to be at the forefront of ex post analysis of the effects of current enforcement trends in such markets.

Robert Klotz, focusing on the notion of a "dynamic" market, concurred that although many industries use digital technologies, the scope of the discussion should delve on the businesses that focus on the development of digital products, either B2B or B2C. There is no question that the large tech companies have significant market power derived from their datasets. The question therefore becomes whether the current merger rules are adequate in circumstances where low turnover new companies may have novel technologies, but do not benefit from such data. This raises the issue of mergers thresholds, see for example the case of Facebook/WhatsApp merger. It is unclear whether the rules should be changed to prevent such mergers, or to create ex post rules to "undo" such mergers?

Harm to Innovation

Ben Van Rompuy noted that in the Dow/Dupont decision, the Commission raised the issue of harm to innovation, an innovation which proved to be controversial.

“There is a need to look at losses of already existing innovation, but also at the risk of loss – in stable oligopolies – of the incentives for companies to diversify their offerings.”

Mr. Klotz took the view that the innovation theory of harm is likely of limited use in merger control in dynamic markets. Innovation, as a term, is not well-defined. But, as a matter of fact, innovation is mentioned in the Merger Regulation and the Horizontal Merger Guidelines ("HMGs"), and the Commission has applied this concept in its decisional practice, mainly in terms of overlapping patent portfolios or R&D activities. The Commission may have stretched the concept of innovation harm beyond its limits. This practice began in a rather conventional way, sticking to the rules in the HMGs, forcing divestments, in e.g., GSK/Novartis, or other means in Intel/McAfee. But problems may arise where the Commission does not refer to specific products, but in terms of the notion of a broader "innovation space." Criticized cases in this category include Dow/DuPont and DB/NYSE. Mr. Klotz shared this criticism on the basis that such an "innovation space" notion goes beyond the HMGs and may lead to over-enforcement.

Mr. Gonzaga took a similar view to Ms. Claiici, criticizing the notion of a "killer acquisition" as pejorative. Not all such innovations have the result of "killing" a competitor or an innovation. Regarding the connection between competition and innovation, Mr. Gonzaga referred to the work of Carl Shapiro, which criticizes the notion of competition as a "lack of concentration." Rather, competition is a dynamic process. There is ample evidence of this. Where there are low barriers to entry or exit, there is innovation. There is no necessary link between concentration and either reduced innovation or higher prices. OECD evidence shows that this is all the more so for vertical or conglomerate mergers. Prices also need to be analyzed over a longer period of time, because prices can fluctuate post-merger.

Ms. Boutin added that there is a need to look at losses of already existing innovation, but also at the risk of loss – in stable oligopolies – of the incentives for companies to diversify their offerings. There has been much discussion about the second aspect of this. Latest academic works (e.g., by Bruno Julien) can lead to structural changes that can lead to less or more intervention. Normally, innovation concerns are a second-order concern after price effects. Further, it is important to note that such innovation effects are only likely in stable oligopolies, which are less likely to arise in "dynamic" markets. As a result, the priority should be to focus on existing innovation.

Loss of Potential Innovation

Mr. Van Rompuy queried how we should look at loss of potential innovation.

Adina Claiici expressed that it is often very difficult to evaluate the loss of potential competition. Ms. Claiici underlined the fact that mere user figures are not enough to assess the competitive barriers to entry are high. Ms. Claiici expressed sympathy for the view that larger incumbents seem to be lodged in place for a longer period of time than is normal in tech industries.

Mr. Gonzaga underlined once again the need to assess potential substitutability. As a general concept, in a merger case, where there is no reason to believe that certain products are not currently substitutes, but may have other commonalities, e.g. similar data, similar technology, similar users, etc., it should not be forgotten that such firms could in fact become substitutes in future. In other words, it may be important to look at the resources and capabilities of the companies, understand the incentive for a larger company to acquire a smaller one.

“It may be unclear whether a technology is important, or whether a new entrant would enter with a substitutable technology.”

Conditional Remedies and ex post Intervention?

Mr. Van Rompuy noted that in some cases Article 102 has been used ex post to police consummated mergers.

Mr. Klotz noted that it is common ground that for cleared mergers, any remaining or future problems could be policed via behavioral rules. This has to some extent happened in the tech space, but it may not be sufficient, because certain mergers, at an early stage, have led to current problems and high fines. Victims rarely benefit from a merged entity subsequently having to pay higher fines. As such, do the thresholds need to be adapted to catch certain mergers? That said, companies need a predictable framework. No matter what rule changes are adopted, predictable outcomes are needed for companies.

Mr. Gonzaga also emphasized predictability as a key factor. In terms of flexible remedies (e.g., remedies that would only apply under certain conditions), the OECD does not advocate for them, but puts them forward for discussion. At times, during the assessment of a merger, a competition authority will not know how the market will evolve, e.g., which assets would be most important or most substitutable, and make remedies subject to “trigger events.” For example, it may be unclear whether a technology is important, or whether a new entrant would enter with a substitutable technology. Thus, a remedy may be made subject to a trigger event, which would be defined precisely.

Ms. Claici approved the idea of conditional remedies in principle, but saw difficulties in the practical implementation of the idea.

Ms. Boutin discussed the merits of comparing the market value of a company v. the transaction value as a potential new trigger but noted it may be difficult to implement. Another alternative would be to maintain a list of companies with high market shares that would need to notify any transaction. In Germany, lowering the thresholds has led to overburdening the authority, but not nec-

“Data sharing at zero price would potentially kill innovation, but a FRAND-type mechanism may provide a good balance between innovation and competition.”

essarily allowing them to focus on the important ones for the digital economy. Ms. Boutin would propose moving to an HSR-style system with a simplified form, allowing the agencies to decide whether or not to pursue the case within a given deadline. This could make assessment of digital mergers easier. A possible solution may be a hybrid UK/US type approach.

Under v. Over Enforcement?

Ms. Claici, responding to an audience question, noted the distinction between under-notification and under-scrutiny.

Robert Klotz underlined that certain mergers that are criticized now needed to be cleared on the basis of the rules at the time. What has largely happened in the meantime is due to market evolution. The key point is to look at how to reform the rules going into the future, if necessary. As new cases arise, new theories of harm can be developed. For digital markets, the key task is to fine tune the theories of harm, to allow authorities to consider data, the size of players, and the contestability of the remaining market.

Final Remarks

Ms. Claici concluded by noting that innovation theories are necessarily very informative in “data mergers”, but in data markets, data mergers could take inspiration from patent licensing. In the SEP context, for example, holders must license on FRAND terms. Data sharing at zero price would potentially kill innovation, but a FRAND-type mechanism may provide a good balance between innovation and competition.

Boutin noted that even providing data may not be effective, because data must be processed in order to be put to use.

Gonzaga concurred that data is useless, but information is valuable. Mr. Gonzaga emphasized the need not to only look at static analysis of the effects of a merger, but also to look at pipeline products, new developments, innovations, etc., in order to enhance enforcement. It is still too early to tell whether there is under- or over- enforcement. A longer time period is needed to draw meaningful conclusions.

Session 2

BIG DATA: UNDERSTANDING AND ANALYZING ITS COMPETITIVE EFFECTS



Speakers:

Thomas KRAMLER (Head of Unit, e-Commerce & Data Economy, DG Comp, European Commission), Justus HAUCAP (Director, Düsseldorf Institute for Competition Economics), Bill BATCHELOR (Partner, Antitrust/Competition, Skadden, Arps, Slate, Meagher & Flom), Alexander ITALIANER (Senior International Policy Advisor, Arnold & Porter)

Moderator:

Marianela LÓPEZ-GALDOS, Global Competition Counsel, CCIA

The debates surrounding data have seen various reports recently from the EU, the ACCC, the UK Furman Report. What have we learned so far?

The Reports

Thomas Kramler explained that the merit of the EU report is that it brings some order to the debate. Data is neither the "wind" nor the "oil" per se – the report rather looks into different types of "big data" (e.g., volunteered data,

observed data, and inferred data). Investment levels in producing different types of data are different. This plays a role in how competition law enforcement should be applied (e.g., in terms of access remedies).

Justus Haucap outlined that the reports, particularly the Cr mer one, are commendable and mostly hands-off. There is also the question of how "platforms" should be treated. The notion of "killer acquisitions" is also treated with skepticism – they are not designed to "kill" but may enhance

make better use of the new platforms. Similarly, the UK Furman report reaches similar conclusions, but proposes more regulatory data access type remedies, e.g. looking for inspiration from the Open Banking initiative in the UK. The notion of Form AB (i.e., a pre-notification procedure) is also mooted – it is questionable how this would result in allocation of resources.

Mr. Italianer reiterated that there are different types of data. Mr. Italianer's key interests are access, portability, consent, data sharing, interoperability, and ethical issues. There is also a lot of transatlantic convergence on the thinking on these topics.

Data: Is It an "Asset" or Something Else?

Mr. Haucap explained that the key question is how costly it is to assemble data. In some sense, data is all very similar, but the questions are how expensive is it, how much investment does it require, and how easy is it to assemble functionally similar data? Data is similar in some senses to an asset. But it is easier to share it than other assets. It can be shared without having to give it up. The new draft German law will be instructive in this regard, and it will be interesting to see how it compares with the essential facilities doctrine.

Mr. Haucap noted that the pre-notification procedure mooted in recent German proposals would be voluntary in nature, and not compulsory, and designed in the interests of legal certainty.

Abuse of Dominance and Data

Mr. Batchelor outlined that the standard Magill factors are well established. There is nothing new to be seen in access to data being a competition problem. Engie is an interesting case. Engie had a vast amount of data as a former incumbent that could be used against rival. Those were extreme facts in terms of proprietary and non-replicable facts. It is important to remember that there is also Article 101 case law concerning data access, e.g. regarding vehicle spare parts. It is important to remember the original platform case in the EU was Bronner concerning newspaper distribution, but indispensability was not found, meaning that there was no obligation to supply.

Italianer explained that it is important to remember the "new product" requirement under the existing EU standards, along with the "elimination of all effective com-

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“ It is good to see an emphasis on common sense. But we should be wary of kicking cases with "exotic" theories into phase II ”

petition" requirement. It is also important to remember that these same standards arise in merger cases.

Mr. Haucap foresaw more data access remedies in future.

Scope of Data Remedies?

Mr. Kramler explained that it is important to remember that in the end, every market will be "digital." He outlined the following three points:

- Data can be a parameter of competition, like price. Can privacy be used to measure the "value" of data in this regard?
- Data can be a barrier to entry. Are there diminishing returns on data volume (i.e., does the curve flatten)? This depends on the datasets in question, in particular whether they are perishable.
- Data as an asset. For example, were the data Shazam would provide to Apple sufficient to prohibit the merger? In that case, not, but data accumulation could potentially be a problem in another case.

Finally, in view of the investment incentives for the collection of data, it was underlined that we need to look at how much investment is required to create the data, and how much would be lost if they needed to be disclosed/shared. There is also the question of how data plays a role in dual role platform cases, e.g., if a merchant is both a seller and a platform provider.

Data and Privacy

Mr. Haucap explained that the German Facebook case is fascinating and good that they took a "hard" rather than "easy" case. It is primarily an exploitative abuse, but an atypical one. The reviewing court found it hard to establish the counterfactual (i.e., if everyone was also breaching GDPR rules). Therefore, what has it to do with market power?

Further, one should ask what kind of people are using Facebook? Can you truly exploit a person who is very willing to give up their privacy? According to Haucap the causal link was not sufficiently established.

Mr. Batchelor explained that it may be best not to focus on the polemic cases. Most are standard horizontal cases, based on straightforward review of actual data and facts, e.g. Thomson/Reuters, and Bayer/Monsanto.

There are other more "exotic" theories of harm, but which in fact resulted in no action based on the Commission's detailed assessment of the evidence, e.g. *Google/DoubleClick*, *Facebook/WhatsApp*, *Microsoft/LinkedIn*. Do they merit all the attention? It is good to see an emphasis on common sense. But we should be wary of kicking cases with "exotic" theories into phase II – these are very fast-moving markets, and the exotic theories risk becoming a "complainers' charter."

It is also worth mentioning two other cases. First, consider *Sonoma/Iddink*, a Dutch case, under which the Dutch competition authority required a publisher to submit to a FRAND obligation to share access to student data to rivals, given its importance for Dutch students (potential customers). Second, consider *Sanofi/Google DMI*, where portability was used as a "sword" rather than a shield. There was no question of competition problems because the GDPR (rather than competition law) mandated data access for diabetes patients.

Will We See More Regulation?

Mr. Italianer explained that this is not the first time a competition commissioner had a competition and another regulatory portfolio. Leon Brittain was also responsible for financial institutions. He also pointed out that, given the new structure of the Commission with Vice-Presidents, the VPs have more of a guidance or coordination role. In practice, the guidance Ms. Vestager receives from her role as competition Commissioner, can feed her into the regulatory role. It is a good thing, a form of cross-fertilization.

Mr. Haucap highlighted that, whether one likes it or not, we will see some regulation substitute for the application of competition law rules. In some cases, e.g. Germany, competition is adopting more of a "regulatory" role. The notion of "dominance" will be expanded to encompass companies that are dominant "across" markets in a broader sense, even though they may not be dominant in a particular market. We might see competition law becoming more regulatory, and vice-versa.

Mr. Batchelor pointed out that in the various reports, you might imagine that certain regulations do not already exist. But, e.g. the B2P regulation exists and was negotiated in detail. Caution is warranted. Access remedies are typically required because they are legacy assets inherited from a state, and there are no risks of interfering in investment incentives. Let us think about the market failure, and identify it, but only then regulated. Do we really want to say, "invented in America, made in China, regulated in Europe?"

Recall Kangaroo – a proposed VoD JV between UK producers proposed in 1999 but prohibited on the basis that British programming might dominate the market. In retrospect, was this a good idea?

Mr. Kramler explained that an antagonism between regulation and free markets actually is not existing. On the contrary, he pointed out that regulation can open markets; it is a complement to competition enforcement, not a replacement. Competition law enforcement is a "backstop" that kicks as a safety net. It cannot solve all the issues, but it is an important safeguard.

Data pooling will be a big topic going forward. Many companies will need to pool data to make machine learning work to provide AI. We have little guidance right now on data pools, and we have our homework to do for the next version of the horizontal guidelines. It is not easy to simply transpose the rules on patent pools (the concepts of complementarity and substitutability from that domain do not work here.)

Data access on a day-to-day basis is probably not a domain where competition law would suffice, and regulation may be required. This would not be unprecedented (e.g., car spare parts and other specific sectors).

Final Remarks

Mr. Italianer concluded that the single market imperative is a dimension of the debate that must be considered in the EU. This will be something to look out for in the future regulatory structure.

Mr. Batchelor clarified that it is right to have a situation where legacy telecoms operators should be mentioned in the same breath as the modern tech sector? Are we at a risk of stymying innovation?

Mr. Haucap added that, as a general matter, it would be best to refine existing competition tools before resorting to regulation.

“Regulation can open markets; it is a complement to competition enforcement, not a replacement. Competition law enforcement is a “backstop” that kicks as a safety net. It cannot solve all the issues”

Session 3

A FIRESIDE CHAT WITH...



Speakers:

Sir Christopher BELLAMY QC, Chairman of the Global Competition Practice, Linklaters Jacques STEENBERGEN, President, Belgian Competition Authority William KOVACIC, Director, The GWU Competition Law Center

Moderator:

Lewis CROFTS, Editor-In-Chief, Mlex

The purpose of this session was to take a more general look at where regulators and courts stand in this new era of tech regulation.

Are We Moving into an Era of More Enforcement Following a Period of Under-Enforcement?

Mr. Kovacic started pointing out that the difficulties of bringing successful Section 2 or merger enforcement actions have resulted in reticence by regulators. The U.S. system has become more lax. There was a culture of risk aversion as Commissioner Vestager rightly pointed out. The 2013 Google decision not to take action was emblem-

“The financial crisis and the erosion of trust hands over the regulatory process to this day. There is still a pressure to “do something” but running faster where you don’t know where you’re going is not a good idea either”

atic of this. The appointment of Tim Wu among others led many to believe there would be more enforcement, but in the end there was no action. According to Kovacic, the FTC

“Regulation, in general, kills competition. Competitors know they can have a dialogue with regulators in a way others can't afford and erect barriers to entry”

took the view that the case was doomed to fail. The discussion would be very different today if the agency did not retreat back then, on the basis that it was too hard. Bear in mind that these were Democrats (not Republicans) who decided not to act. Things are different now. There would be more appetite to act.

Mr. Steenbergen explained that there is underenforcement due to lack of resources, certainly in case of alleged abuse of dominance cases. This could be the case too at EU level, but they may not have all the resources they need to deal with their pipeline either. Perhaps there is less underenforcement than before. The degree of compliance also seems to be going up, however. It is important not to underestimate how important SMEs are, either, in terms of their impact on the economy. In terms of the merger thresholds, this is a difficult, delicate question (as discussed in the Crémer, et al reports). There is also a risk of killing innovation rather than “killing the killer acquisition”.

Mr. Bellamy began explaining that, as a former judge, he hopes we have set a fair benchmark. He suggested that we need to observe the broader context. The financial crisis, and the rise of tech giants have led to a lack of trust in the process. Two other problems have to be emphasised: (1) a theory of harm does not mean actual harm; and (2) there are other non-antitrust problems that conflict and interact with competition law, namely privacy, freedom of speech, interference in politics, and so on.

Mr. Kovacic observed that the financial crisis and the erosion of trust hands over the regulatory process to this day. There is still a pressure to “do something” but running faster where you don't know where you're going is not a good idea either. There is consternation in all jurisdictions about “doing more,” but there is also a lot of experience from other instances, e.g. the monitoring of petroleum prices in the 1990s. At that time we did not monitor tech giants. It is important to intelligently allocate resources to produce the best outcomes.

Political Changes and the Balance between Antitrust and Market Forces

Mr. Kovacic: There is a good chance that Warren will be the next President of the United States, and that she will implement sweeping reforms in enforcement, and become less risk-averse in taking cases. She believes com-

petition law enforcers are in a position similar to financial regulators leading up to the 2008 crash.

Mr. Bellamy: Two points: (1) Regulation, in general, kills competition. Competitors know they can have a dialogue with regulators in a way others can't afford and erect barriers to entry; (2) in the end, markets sort themselves out. Look at the examples of Xerox and IBM in the 1970s and 1980s, respectively, and then Microsoft in the 1990s. While it is true that all these companies had antitrust issues, antitrust was subsidiary, and market forces took over. There is no need to over-regulate something that the market will correct.

Mr. Steenbergen: Sooner or later, market forces will lead to a correction. The problem is the “later”. Right now, we are in an “easy” period because there is relatively little inflation. This will change when inflation goes up. Many of the national competition authorities were founded in the 1990s as an alternative to price regulation. National competition authorities are politically seen as an alternative to price regulation, even though intellectually national competition authorities do not consider themselves to be price regulators. To be credible, authorities need to justify their existence and justify their role. In concrete terms, even the private bar wants authorities to bring out press releases on the date of dawn raids.

What Do Stakeholders Consider to Be the Role of Competition Authorities? Is It “Consumer Interests”, i.e. Broader Issues Such as Privacy, Data Protection, Freedom of Expression, and so on?

Mr. Kovacic: Consumer welfare, properly understood, takes into account a broad range of concerns, not just short term price effects. The notion needs to be reset to take into a wide range of concerns. There are ways these can be sensibly taken into the consumer welfare rubric. But some issues, e.g. privacy data protection, the environment, employment, etc., are best not used to expand the role of competition law. Mission creep may be counterproductive.

Mr. Steenbergen: We need to reconsider the “new economic approach”. It has led authorities to look only at what can be measurable. Behavioral economics may have something to add, but there is the risk that it could lead to “voodoo economics”.

Mr. Bellamy: We need evidence, but evidence is not necessarily measurability per se. Look back to railway regulation in the 19th Century. Access remedies, broadly speak-

“Sooner or later, market forces will lead to a correction. The problem is the “later”.”

ing, tended to work. In my view the "consumer interest" is a disguise for the "public interest". Deals with a multiplicity of issues, such as in the digital space, raise many issues, and trying to shoehorn everything into antitrust makes little sense. I think there is an argument for narrowing down the scope of competition law. There should be more focus.

Mr. Kovacic: Consumer welfare could be so elastic that it could deal with all grievances. Or it could be narrower. But because agencies are cautious about taking on the other concerns, they don't speak about them. But agencies should act with honesty and clarity and make clear the impact of their decisions on those other policies domains.

Concerning the speed of intervention, Jacques mentioned interim measures. There is an interesting debate right now about what the remedy is and where it comes from. Deterrence and other effects of "having visible police on the beat" can have strong effects. Arguably this was the outcome of the Microsoft cases of the 1990s. There is a lot of experience in agencies. It would be helpful to assemble the available "antitrust big data" to measure the effects of the various interventions we have seen so far.

Look back to the AT&T/Western Electric decisions of the US authorities in the mid 20th century. The public wanted a splitup, but the chosen remedy turned out to be pro-competitive, over time. It is important to take the longer view, and to value the slow moving process that can have an effect over time.

Mr. Bellamy: It is important to look at cultural factors too (see, e.g., drink driving, smoking). Companies are run by human beings, and if one can develop codes of behavior that lead to change, that is a positive outcome. Moreover, private individuals should be empowered, e.g. recent MasterCard and Google litigation in the UK.

Is There a Need for a New Institutional Setup (e.g. New Digital Units in the UK)?

Mr. Kovacic: The reports speak in little detail about the need to adapt existing institutions. A better solution would be to take existing structures but pay the staff better. You need to house these functions in institutions that are not as susceptible to regulatory capture. There

“Regulation will never be effective because it is always susceptible to capture. The best solution is to rely on market forces.”

is a risk of creating under-resourced institutions susceptible to capture.

Mr. Steenbergen: With regard to a digital authority, it is hard to define its scope, because "everything becomes digital." To take the example of the Facebook case, it is an important advantage that we now consider competition and other domains of regulation to be complementary. They are separate domains of law, but that does not mean that competition authorities cannot take into account the data consequences of breaches of the competition rules.

Mr. Bellamy: Regulation will never be effective because it is always susceptible to capture. The best solution is to rely on market forces.

Mr. Kovacic: The best platform already exists in the U.S., and it is called the Federal Trade Commission.

“Companies are run by human beings, and if one can develop codes of behavior that lead to change, that is a positive outcome.”

Session 4

REGULATION OR COMPETITION IN THE DIGITAL SPACE: WHAT'S BEST FOR CONSUMERS?



Speakers:

Rene AUGUSTINE (Deputy Assistant Attorney General, International and Policy, US DOJ), Jonathan BAKER (Research Professor of Law, Washington College of Law, American University), Georgios MAVROS (Public Policy & Government Relations EMEA, Google), Nicholas BANASEVIC (Head of Unit, IT, Internet & Consumer Electronics, DG Comp, European Commission)

Moderator:

Assimakis KOMNINOS, Partner, White & Case

Introductory Remarks: How to Define "Digital"?

Essential question: what is the optimal choice – competition enforcement or regulation? A first question: what is so special about digital markets?

Mr. Baker: There are good reasons to pay a lot of attention to digital markets, because it is unsurprising to see dominant digital firms, e.g. direct or indirect network effects. There are also scale effects. It is not inevitable that there will be one dominant digital platform, and in fact

“ From Google's standpoint, the key is to identify the practical ”

consumers may prefer different platforms to coexist. There is a lot of attention particularly on the issue of exclusion of platform rivals, or situations where a platform is also an end-user.

Ms. Augustine: The US Department of Justice has announced a review into leading online platforms, in part in light of widespread public concern regarding their market power and impact on competition. It is not As the Department's review is ongoing, it would be inappropriate to prejudge whether there has been unlawful behavior, but this is something we take seriously. We are waiting to see where the evidence leads before making any decisions.

On the question of definitions, there is a need to define "digital" because it plays a crucial role in determining the scope of the legal regime and providing notice to adherents of their obligations under the law. It seems clear that "digital" would include the well-known large players, but the status of other large platforms may be less clear. Other companies are now also large collectors and processors of data. Various industries are embracing "platforms" into their business models.

We also understand digital companies pursue different monetization strategies, such as advertising, or taking a share of a transaction value, or maintaining a subscription model.. The diversity of industries, firms, market structures and monetization models make it questionable whether talking about "digital" issues generally is a useful framework for competition policy formulation and analysis.

There Seems to Be a Common View that "Something is Wrong and Needs to Be Fixed." How Has the Industry Responded?

Mr. Mavros: We know that various reports have raised numerous issues. There are radically different views in the industry. Some say there is nothing to be seen here, while others say "break them up and move on". From Google's standpoint, the key is to identify the practical questions and come up with sensible and proportionate responses to the perceived challenges.

What Are the Policy Lessons that You Have Learned in Dealing with such Issues over the Years, Mr. Banasevic?

Mr. Banasevic: In a way, this is an old debate. Even back in the Microsoft days, people questioned the need for any competition enforcement in these models. Digital models today may be in new areas but at the high conceptual level, the concepts of network effects and two sided markets, etc., are not specific to "digital" and not novel. Perhaps there is greater intensity to the importance of data in today's markets, but overall the Special Advisers' report concluded that competition rules as they exist are broadly speaking capable of dealing with the current set of competition issues.

We do not choose cases simply because a sector is "digital" or a "platform". The question is whether, on the basis of the evidence, there is harm, and, if so, to bring a case on its own merits.

What do you think about the Antitrust v. Regulation Dichotomy?

Mr. Banasevic: I don't see a dichotomy. Antitrust cases are fact-specific. There may be a broader deterrent effect, but cases are the "bread and butter" of competition enforcement.

But if there are broader problems that society identifies, it is not the remit of competition law to deal with problems beyond its scope, but there may be a complementary role for legislation or regulation to play.

What about the U.S.? Is the Regulation v. Competition Debate also Active There? Bearing in mind that even if the agencies were to become more activist, there would remain the role of the Courts?

Ms. Augustine: The U.S. antitrust tools are not well-suited for determining what values outside of the competitive process are either worth pursuing or how to prioritize those interests when they conflict. The question is really whether we should move from a primarily free market-based economic system, towards a hybrid economic regulatory model. The U.S. position continues to be that markets are best governed by competition rather than by regulators.

“ We do not choose cases simply because a sector is "digital" or a "platform". The question is whether, on the basis of the evidence, there is harm ”

Prior to serving as a distinguished Associate Justice on the U.S. Supreme Court, Robert Jackson made this point in 1937 when he gave a speech as the Assistant Attorney General for the Antitrust Division. He said, "The antitrust laws represent an effort to avoid detailed government regulation of business by keeping competition in control of prices. It was hoped to ... let [government] confine its responsibility to seeing that a true competitive economy functions." This, he said, "is the lowest degree of government control that business can expect."

This approach reflects the fundamental choice in the relationship between government and the economy. In the U.S., through the give and take of the free market, the competitive process maximizes consumer welfare by favoring efficiency, innovation, choice, and lower prices to the consumer.

Mr. Baker: I believe we already have a hybrid regulatory model. There is much competition agencies can do, but there are many ways regulators can supplement this. For example, regulators can directly create more competition e.g. by mandating interoperability or standards. The FCC has done this in the past, for example through mandating number portability. Regulation can also reach places antitrust cannot, e.g. by removing government mandated barriers to entry.

To me, it is an open question whether, if you, say, want to mandate data transfers, this raises privacy issues. It is an open question to me whether the competition agency gets input on privacy or vice versa.

Would industry prefer regulation or competition enforcement?

Mr. Mavros: In my view, these approaches are complementary. There are horizontal regulations, e.g. the GDPR in privacy, and also individual regulators. From a corporate perspective it is key to receive guidance, e.g. in terms of how to provide notices, etc., to users. By contrast, DG COMP has the ability to "zoom in" on specific questions.

Do certain notions, e.g., the definitions of market power and dominance, and theories of harm, need to be revisited in light of digital markets?

Mr. Banasevic: Competition law is a legal discipline, and the traditional notions of market definition and power are useful. We have not used the specific SSNIP test in various cases (and the Court has held it is not indispensable). We are not rigid, but these rules are there for a good reason.

Our theories of harm in recent cases have also not been particularly novel. For example, the leveraging theory of harm is not new. Innovation harm is also not a novel concept. Sometimes, we hear that in the U.S., there is a debate about the meaning of consumer welfare in the context of short term price effects. We take a practical approach to consumer welfare, including innovation harm, or data as a parameter of competition.

Ms. Augustine: Our antitrust tools are not well-suited for determining what values outside of the competitive process are either worth pursuing or how to prioritize those interests when they conflict. . Related to the competitive process more specifically, the consumer welfare standard is flexible enough to deal with competition concerns raised by digital markets. The real challenge is in understanding how specific markets work and analyzing the effects of particular conduct in a relevant well-defined market. It is incumbent on the Antitrust Division in each and every case to define markets, assess market power, and analyze the consumer welfare effects.

Mr. Baker: In discussing the consumer welfare standard, we need to distinguish "rules and tools". We have to recognize that we have growing market power while at the same time we have active antitrust authorities. It appears we are insufficiently deterring anticompetitive conduct. In terms of the tools, (e.g., the SSNIP test, etc.) are fine, it is how we weigh harms and benefits in cases.

The debate about the consumer welfare standard is a proxy battle waged by those who do not believe that large firms are insufficiently held to account. The welfare standard approach has always taken into account harm not only to buyers, but also to sellers, innovation, quality and so on. There is little to debate, because the narrow interpretation was never really used.

“ Regulation can also reach places antitrust cannot, e.g. by removing government mandated barriers to entry. ”

Concerning the recent digital reports (EU, UK, Germany, BRICs, etc.). Is that a problem for a global company active in Europe? Would you rather deal with these ideas on a centralized basis?

Mr. Mavros: It is true that the proliferation of reports requires a lot of cross-functional cooperation. Many of the ideas floated are interesting. We will contribute to this debate. The broad debate about competition law reform in the digital economy must involve end-users, because it will impact how they experience the Internet. We would like to advocate for a solution that does not undermine the sound rules that underpin the EU legal system.

Key questions include whether remedies are proportionate? Should the merger notification thresholds be altered? We will contribute to these debates, but would advise against moving away from principles that have stood the test of time.

In 2004, enforcement was decentralized, but also to some degree centralized through the adoption of notices. These days, there seems to be some "renationalization" in terms of policy?

Mr. Banasevic: We have a unique system in the EU, and the ECN is very collegial. It is critical in light of the recent reports that we continue to engage with each other and have a unified collegial attitude. We also need to cooperate internationally. We should not aim for uniformity for the sake of it. There may be good reasons for slightly different rules around the world for a host of reasons. But dialogue is key, and many of the perceived differences (e.g., between the EU and the US) are overstated. Finally, I don't think the Commissioner's new dual role will effectively change the enforcement system in the EU

Who should be enforcing the rules? For example, should antitrust agencies also have the power to enforce regulatory remedies?

Mr. Baker: Separate regulatory bodies exist for a reason. But sector regulators can take into account competition concerns, and to consult. But antitrust enforcers should focus on competition and not other public interest concerns. There should of course be a dialogue.

Ms. Augustine: Historically, the antitrust division has provided input to Congress and government agencies on competition-related aspects of their activities.

Is there a risk that other countries, less respectful of the rule of law, could take inspiration from any new initiatives taken in the EU or U.S., and adopt extreme stances?

Mr. Mavros: We should have a framework based on rules and principles, and some principles that underpin our legal system.

Summing up: are you optimistic about enforcement in this sector?

Mr. Baker: This is clearly a key area, and we can expect sustained attention, if not necessarily quick action by U.S. authorities.

Ms. Augustine: Our ability to coordinate with our global partners on specific matters is dependent on our ability to get waivers from parties.

Mr. Mavros: It is good that this debate is taking place in public. It is important to recall that, in the end, these policy choices will determine how people experience the Internet.

“ Our antitrust tools are not well-suited for determining what values outside of the competitive process are either worth pursuing or how to prioritize those interests ”

Session 5

ONGOING CONSULTATIONS



Speakers:

Maria COPPOLA (Counsel for International Antitrust, US FTC), Joaquín LÓPEZ VALLÉS, (Director, Department for the Promotion of Competition, CNMC), Henri PIFFAUT (Vice President, French Competition Authority), Will HAYTER (Senior Director for Policy, Advocacy & International, CMA)

Moderator:

Jacques STEENBERGEN, President, Belgian Competition Authority

1. Introductory remarks

Ms. Coppola: A year of consultations by the FTC on a variety of topics. Papers on various topics, three in particular are of interest:

1. Guidance on tech platforms. Guidance on potential theories of harm, market definition, possible limits on antitrust law.

2. Vertical merger commentary. Current guidelines are out of debate and do not mention theories of harm from recent cases, e.g. AT&T/Time Warner. Hopefully this will lead to joint FTC/DOJ Guidelines on vertical mergers.

3. Report on hearings concerning international coopera-

tion. There was unequivocal support for "second generation agreements" to allow for transfer of information without waivers, and investigative assistance.

Mr. López-Valléz: Study on online advertising. CNMC believes that it has two particular virtues: independence and expertise. This study started several years ago. CNMC has already published on the question of ride sharing, FinTech, and the current focus is on online advertising. Public consultation. Next steps will likely be requests for information. Mr. López-Valléz' preliminary view is that online advertising is a very important activity for the online economy and the Internet as a whole. Online advertising offers various advantages, including relevance and automation, which saves costs for businesses. On the other hand, there are risks, for example horizontal concentration, vertical integration, big data, and so on. If something is to be done, it could be done either in terms of competition enforcement, regulation, or a combination of the both, along with effective advocacy.

M. Piffaut: The reason for public consultation is that we are facing a new wave of "digitalization". The first step is to understand what is going on, by asking stakeholders. It seems there are four problems or barriers to entry in this industry: (1) data is required to enter the market effectively; (2) data is meaningless without algorithms (FCA is working with the Bundeskartellamt on a report on algorithms); (3) Network effects; (4) Need for expertise. There is a risk of fragmentation on the public side, and therefore there is a need to ensure there is coordination between public authorities, particularly regarding data.

Mr. Hayter: Update on CMA's study on online advertising markets. Outcomes could include recommendations to government, enforcement action, or a phase II investigation. The study covers three times: (1) effects on consumer-facing market, and understanding user data; (2) consumer control over data collection; (3) is there sufficient competition in the supply of digital advertising – trying to understand the different elements of the value chain. So far the CMA is four months into the consultation, and depending on what is found, further action may be taken.

“ If something is to be done, it could be done either in terms of competition enforcement, regulation, or a combination of the both, along with effective advocacy. ”

“ The reason for public consultation is that we are facing a new wave of "digitalization". The first step is to understand what is going on, by asking stakeholders. ”

The common ground between all speakers that the characteristics of digital markets individually are not qualitatively new, features include low marginal costs, economies of scale and scope etc; there also seems to be some consensus on what to do, e.g. different types of access remedies, sharpening up and speeding up enforcement, and so on.

The outcome of the report is likely to be regulation will be required, as enforcement action on its own is unlikely to be effective. A complementary approach is likely required.

* This summary has been prepared by CPI and it is based on the conference that took place in Brussels on October 24, 2019.



CPI Interviews



Maria Coppola

Counsel for International Antitrust,
US FTC



October 24, 2019

CPI interviewed the US Federal Trade Commission's Counsel for International Antitrust, Maria Coppola.

Can you please give some background into the FTC's recent Hearings into Competition and Consumer Policy in the 21st Century? What did the hearings involve, and what was the FTC's purpose in holding them?

Coppola: We have now wrapped up a year of public inquiry with our Hearings on Competition and Consumer Protection in the 21st Century.¹ The hearings explored whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection law, enforcement priorities, and policy. We held 22 days of hearings, with more than 350 experts testifying, and we have received more than 3,000 public comments. We consulted with a dozen coun-

terpart agencies, both formally and informally, and many other international experts.

The hearings demonstrate the unique role the FTC plays in the development of sound competition and consumer protection policy. The FTC has a statutory mandate "[t]o gather and compile information" regarding market activity and business conduct that are covered by the FTC Act. The last time the FTC conducted broad-ranging, high-level hearings was the Global Competition Hearings undertaken during the Chairmanship of Bob Pitofsky in 1995-96.

In announcing these hearings, FTC Chairman Joe Simons noted, "[t]he broad antitrust consensus that has existed

¹ More information about the hearings is available here: <https://www.ftc.gov/policy/hearings-competition-consumer-protection>.

within the antitrust community, in relatively stable form for the last twenty-five years, is being challenged in at least two ways.”² The Chairman explained that “some recent economic literature concludes that the U.S. economy has grown more concentrated and less competitive” in recent decades, and some commentators are “calling for antitrust enforcers to take account of policy goals beyond consumer welfare,” such as the reduction of income and wealth inequality, the promotion of worker welfare, and the reduction of concentrated political power. The overarching purpose of the competition-oriented hearings was to consider the validity of those two challenges, as well as to identify ways in which competition law and policy might have to adapt to take account of new and evolving technologies.

CPI: The Hearings are now complete. What are the next steps for the FTC in terms of any changes to policies, priorities, or guidelines?

Coppola: We are considering the testimony, comments, as well as our own expertise, judicial decisions, and academic writings to identify whether changes are warranted, and if so, how we will accomplish them.³

The FTC’s Office of Policy and Planning led the hearings and has identified the need for articulation and publication of a clear analytical framework for the evaluation of:

- Unilateral conduct by allegedly dominant technology platforms;
- Vertical integration through acquisition or merger;
- Certain horizontal merger transactions;
- Whether common ownership has demonstrably anti-competitive effects;
- The authority of the FTC, and the limitations on that authority, to identify and prohibit or remedy anti-competitive and unfair or deceptive acts or practices within the broadband industry; and,
- The consumer welfare standard—and alternatives to the consumer welfare standard—as organizing principle of antitrust analysis.

This effort will help us identify areas where the case law could be clarified or improved to allow for more certain and successful challenges to anticompetitive conduct. The Commission can achieve that clarification or improvement through its own case selection and amicus participation—the development of the common law—or through a request or support for legislative action. It may also strengthen the basis and direction of ongoing or future investigations of dominant firm conduct or anticompetitive mergers, through the development of the case law and agency practice.

Our models for this type of output are the Guidelines and Commentary the agencies have periodically issued (and updated) in the areas of horizontal mergers, competitor collaborations, and intellectual property rights, and statements the Commission has issued with respect to its application of Section 5.

CPI: The issue of the antitrust treatment of “digital platforms” has been a particular focus of debate on both sides of the Atlantic in recent years. What have the Hearings produced in terms of the FTC’s enforcement practices in this domain?

Coppola: Our highest priority is to complete and release a guidance document on the application of the antitrust laws to conduct by technology platforms. These guidelines will be similar in form, structure, and purpose to the Competitor Collaboration Guidelines.⁴ If we are successful, this document will identify an analytic framework for identifying, evaluating and remedying conduct by dominant technology platform companies. It will help the Commission and interested parties to understand better whether there are limitations in antitrust law that prevent the agencies from prohibiting or successfully remedying anticompetitive or unfair conduct.

This platform guidance will support efforts by the Commission to develop the law through case selection and amicus participation, such as the FTC’s Surescripts case.⁵ Policymakers may find this document helpful as they consider whether new laws or regulations are appropriate and necessary with respect to single-firm conduct by large tech platforms. The challenge will be whether we can articulate a framework for evaluating single-firm conduct in this area, in the same way the Competitor Collaboration Guidelines were successful in doing so for competitor collaborations.

² Joseph J. Simons, Chairman, Fed. Trade Comm’n, Prepared Remarks of Chairman Joe Simons: Hearings on Competition and Consumer Protection in the 21st Century

³ For a detailed discussion of the likely outputs of the hearings, see Prepared Remarks of Bilal Sayyed at Georgetown University Law Center (September 10, 2019), https://www.ftc.gov/system/files/documents/public_statements/1544096/sayyad_-_georgetown_university_law_center_remarks_9-10-19_0.pdf

⁴ https://www.ftc.gov/sites/default/files/documents/public_events/joint-venture-hearings-antitrust-guidelines-collaboration-among-competitors/ftcdojguidelines-2.pdf

⁵ <https://www.ftc.gov/news-events/press-releases/2019/04/ftc-charges-surescripts-illegal-monopolization-e-prescription>

CPI: Clearly, the treatment of mergers in FTC enforcement has been a topic of discussion in recent years. Are there any areas that the FTC envisages deserve additional guidance or other policy initiatives?

Coppola: Another high priority for the FTC is guidance on the analytical framework used to evaluate vertical mergers. In conjunction with staff from the Bureau of Economics and Bureau of Competition, the Office of Policy Planning is drafting a "vertical merger commentary," similar in form and purpose to the 2006 Commentary on Horizontal Merger Guidelines. This commentary, which could serve as a substitute for, or complement to, vertical merger guidelines, is intended to articulate and explain the Commission staff's analytic framework for reviewing, analyzing and remedying what might be an anti-competitive vertical merger, and will include case examples.

Unlike the 2006 Horizontal Merger Commentary, we do not have an up-to-date set of U.S. vertical merger guidelines to structure our analysis. Thus, the structure the commentary sets out could support a path to updated and joint FTC/DOJ vertical merger guidelines. The commentary will likely include a legal overview of the application of Section 7 to mergers, a discussion of the relevance of market definition and market shares, sources of evidence, and, more substantively, theories of unilateral and coordinated harm, the treatment of efficiencies, and consideration and adoption of remedies sufficient to address competitive harms.

CPI: The FTC is a prominent enforcer, but acts in an increasingly interconnected world of antitrust enforcement. Did the hearings provide any useful input on how the FTC should interact with its counterparts on the international scene?

Coppola: Two days of the hearings were dedicated to "The FTC's Role in a Changing World," focusing on the agency's international work.⁶ This set of hearings explored the FTC's international role in light of globalization, technological change, and the increasing number of competition, consumer protection, and privacy laws and enforcement agencies around the world. We are preparing a staff report that will focus on the key takeaways and recommendations. While there are many, I'll mention two that are perhaps more relevant for CPI readers:

Information sharing and investigative assistance: There was strong support for pursuing mechanisms for enhanced information sharing and investigative assistance in antitrust investigations. In today's interconnected

world, agencies need to obtain and share information quickly and efficiently in order to conduct effective cross-border investigations. Participants stressed the need to improve opportunities for obtaining information, including confidential information, and investigative assistance from the FTC's counterpart competition agencies. Although the FTC's current network of international agreements provide important legal frameworks for cooperation in competition investigations, they do not provide for the ability to share confidential information or to use domestic investigative tools to provide reciprocal investigative assistance. The International Antitrust Enforcement Assistance Act of 1994 had the laudable intention of filling those gaps. But the agencies have only been able to conclude one agreement (with Australia) pursuant to the Act. Based on testimony at the hearing, staff recommends that the FTC should, with the DOJ, redouble its efforts to pursue more such agreements.

Technical assistance and fellows: There was also strong support among hearing participants for the FTC's technical assistance and International Fellows programs. The FTC has a long history of providing technical assistance to foreign competition and consumer protection agencies, including by commenting on proposed laws, regulations, and guidelines, and through short- and long-term training missions. The FTC has used authority from the SAFE WEB Act to host over 140 foreign officials for periods of several months and to exchange staff with foreign counterpart agencies.⁷ Panelists highlighted the value of these programs in helping agencies bring their laws and policies in line with international best practices and to strengthen cooperative ties among agency staff.

“Our highest priority is to complete and release a guidance document on the application of the antitrust laws to conduct by technology firms.””

⁶ <https://www.ftc.gov/news-events/events-calendar/ftc-hearing-11-competition-consumer-protection-21st-century>

⁷ Joseph J. Simons, Chairman, Fed. Trade Comm'n, Prepared Remarks of Chairman Joseph Simons: Fordham Speech on Hearings Output (Sept. 13, 2019), https://www.ftc.gov/system/files/documents/public_statements/1544082/simons_-_fordham_speech_on_hearings_output_9-13-19.pdf



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“Very interesting and dynamic.”

Clara García Fernández,
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Karina Stan,
Developers Alliance

“An excellent conference - top quality speakers giving insight into a very interesting topic.”

Peter Rowland,
Herbert Smith Freehills

“Very well balanced event with opportunities to learn and network.”

Rita Griguolaite,
Motieka & Audzevicius

“Very interesting conference with good speakers, thanks for the possibility of participation! I had just hoped that the digital subjects would be a bit broader and include the issues mentioned above.”

Pablo Asbo,
Eurocompetition

“Very good topics and nice atmosphere, thank you.”

Ramona Tax
B B Law Group

“Great event, lively debates, outstanding organization!”

Joaquín López Vallés,
CNMC

“Thanks for the arrangement of key men in competition authorities.”

Yeongsool Yoon
Korea Fair Trade Commission

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