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Regulating digital gatekeepers: Background on the future digital markets act

Publicatietype Briefing

Datum 08-12-2020

Auteur MADIEGA Tambiama André

Beleidsreïen Consumentenbescherming | Interne markt en douane-unie | Mededingingsrecht en -regelgeving | Verbintenissen-, handels- en vennootschapsrecht

Zoekterm antitrustwetgeving | commercialisering | communicatie | concurrentie | concurrentiebeperking | dienstverrichting | digitale economie | digitale eengemaakte markt | distributie | ECONOMIE | ECONOMIE, VERKEER EN HANDELSVERKEER | economische structuur | elektronische handel | EU-mededingingsbeleid | EUROPESE UNIE | internet | kartelvoorschriften | ONDERNEMING EN CONCURRENTIE | Opbouw van Europa | OPVOEDING, ONDERWIJS EN COMMUNICATIE | tussenhandelaar

Samenvatting The EU has unveiled an ambitious plan to regulate online platforms, and the European Commission is proposing to introduce ex ante regulation to ensure that markets characterised by large platforms acting as digital gatekeepers remain fair and competitive for innovators, businesses, and new market entrants. The introduction of an ex ante regulatory framework that could limit online platforms' commercial freedom and give wide-ranging enforcement powers to regulators would be a far-reaching step. Against this background, this briefing explains the rationale for regulating digital gatekeepers in the EU and provides an overview of the key policy questions currently under discussion. Recent reports and studies have shown how a few large platforms have the ability to apply a range of practices that raise significant competition issues. The limitation of competition law – essentially applied ex-post after the anti-competitive practices have been implemented – has sparked a debate on whether EU competition rules are still fit for purpose and whether such platforms should not instead be regulated ex ante so as to provide upfront clarity about what behaviour towards users and competitors is acceptable. In this respect, the policy discussion focuses on a number of issues, in particular, how to identify online gatekeepers that should be subject to ex ante regulation, what conduct should be outlawed for those gatekeepers, what obligations should be placed on them (such as data portability and interoperability), and how such innovative regulations should be enforced. Finally, the briefing highlights the initial views of a number of stakeholders.

Briefing [EN](#)

Multimedia [Regulating digital gatekeepers: Background on the future digital markets act](#)

Safeguarding competition in air transport

Publicatietype Briefing

Datum 20-11-2017

Auteur VETTORAZZI STEFANO

Beleidsreïen Mededingingsrecht en -regelgeving | Vervoer

Zoekterm concurrentie | concurrentiebeleid | concurrentiebeperking | derde land | ECONOMIE | economische analyse | EU-recht | EUROPESE UNIE | impactonderzoek | INTERNATIONALE BETREKKINGEN | internationale overeenkomst | internationale politiek | kartelvoorschriften | lucht- en ruimtevervoer | luchtvervoer | ONDERNEMING EN CONCURRENTIE | Opbouw van Europa | organisatie van het vervoer | overeenkomst (EU) | Recht van de Europese Unie | reizigersvervoer | samenwerkingsbeleid | TRANSPORT | voorstel (EU)

Samenvatting This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's impact assessment (IA) accompanying the above proposal, adopted on 8 June 2017 and referred to Parliament's Committee on Transport and Tourism (TRAN). The proposal intends to repeal Regulation (EC) No 868/2004 in order to 'ensure a fair level playing field between European and third country air carriers' (IA, p. 44), 'with a view to maintain conditions conducive to a high level of connectivity' (explanatory memorandum, p. 8). According to the IA, 'Regulation (EC) No 868/2004 intended to protect EU air carriers against objectively defined practices considered as "unfair" and "discriminatory", namely subsidisation and unfair pricing practices causing injury to EU carriers in the supply of air services to and from third countries' (IA, p. 34). However, for the reasons comprehensively outlined in the IA (pp. 34-36), the regulation 'has never been applied, and some of its features make it very unlikely that it will ever be (concretely) applied' (explanatory memorandum, p. 3). The proposal is part of the 'Open and Connected Aviation' package, which includes three other initiatives. The European Parliament has called for the revision of this regulation in a number of its resolutions, as it had proved inadequate and ineffective. The Council, in its conclusions adopted on 20 December 2012, called for a more ambitious and robust EU external aviation policy, based on the principles of reciprocity and open and fair competition in a level playing field. It considered that this regulation had proved itself unable to adequately address the specific characteristics of the aviation services sector and supported the Commission's intention to analyse possible options for a more effective instrument to safeguard open and fair competition. It also encouraged the Commission and Member States to 'use their bilateral and multilateral relations to actively support the establishment of a level playing field favouring open and fair competition in international air transport' (Recital 24, p. 4).

Briefing [EN](#)

Mededingingsbeleid

Publicatietype Infopagina's over de EU

Datum 01-11-2017

Auteur HONNEFELDER Stephanie

Beleidssterrein Interne markt en douane-unie

Zoekterm concurrentie | consumptie | controle op concentraties | dienst van algemeen belang | ECONOMIE, VERKEER EN HANDELSVERKEER | EU-instellingen en Europese overheid | EU-mededingingsbeleid | EUROPESE UNIE | institutionele bevoegdheid (EU) | kartelvoorschriften | machtspositie | ONDERNEMING EN CONCURRENTIE | POLITIEK | publieke dienst | toezicht op overheidssteun | uitvoerende macht en overheidsadministratie

Samenvatting De artikelen 101 tot en met 109 van het Verdrag betreffende de werking van de Europese Unie (VWEU) bevatten regels voor de mededinging op de interne markt. Hierin is bepaald dat mededingingverstorende overeenkomsten tussen ondernemingen verboden zijn. Ondernemingen met een machtspositie op de markt mogen geen misbruik maken van deze positie en de handel tussen de lidstaten op die manier ongunstig beïnvloeden. Fusies en overnames met een EU- dimensie worden door de Europese Commissie („de Commissie”) gecontroleerd en kunnen in bepaalde gevallen worden verboden. Staatssteun voor bepaalde bedrijven of producten die tot versterking van de mededinging leidt, is verboden, maar kan in bepaalde gevallen toch worden goedgekeurd. De mededingingsbepalingen gelden ook voor overheidsbedrijven, openbare diensten en diensten van algemeen belang. Mocht de verwezenlijking van de doelstellingen van deze bijzondere diensten gevaar lopen, kunnen de mededingingsregels buiten werking worden gesteld.

Infopagina's over de EU [BG](#), [CS](#), [DA](#), [DE](#), [EL](#), [EN](#), [ES](#), [FI](#), [FR](#), [HU](#), [IT](#), [LT](#), [LV](#), [NL](#), [PT](#), [RO](#), [SV](#), [ET](#), [HR](#), [MT](#), [PL](#), [SK](#), [SL](#)

Changing Pipelines, Shifting Strategies: Gas in South-Eastern Europe, and the Implications for Ukraine

Publicatietype Uitgebreide analyse

Datum 01-07-2015

Auteur DE MICCO Pasquale

Beleidssterrein Buitenlandse zaken | Energie | Industrie

Zoekterm aardgas | aardolie-industrie | Azië-Oceanië | concurrentie | ECONOMIE | economisch gevolg | economische analyse | economische geografie | economische sanctie | ENERGIE | energiebeleid | energiediversificatie | energiesamenwerking | energievoorziening | EU-lidstaat | Europa | gasleiding | GEOGRAFIE | INTERNATIONALE BETREKKINGEN | internationale politiek | kartelvoorschriften | machtspositie | Oekraïne | onafhankelijkheid van energie | ONDERNEMING EN CONCURRENTIE | organisatie van het vervoer | politieke geografie | Rusland | samenwerkingsbeleid | TRANSPORT | Turkije | westelijke Balkan

Samenvatting Plans for gas pipelines in south-eastern Europe have experienced great upheaval in recent years, the result of business competition as well as the ongoing stand-off between Europe and Russia. The projects' advances and reversals reflect shifting strategies: those of new suppliers to find clients, those of traditional suppliers to conserve their markets and avoid regulatory impediments, and those of both suppliers and clients to ensure greater reliability. For many, this means planning to bypass Ukraine. Yet Europe as a whole does not have a single, coherent strategy. Different European countries have divergent relations with Moscow, and their multiple approaches to energy security impede coherence, particularly when it comes to Ukraine. Even within the EU institutions, the messages sometimes appear contradictory, with political declarations deviating from the technical statements of the European Commission. Ukraine's fate – whether or not it remains a transit country for gas to the EU – depends on multiple factors: its own internal reforms, its integration with the EU market, and the EU's continued support.

Uitgebreide analyse [EN](#)

The EU's prominent antitrust cases [What Think Tanks are thinking]

Publicatietype Kort overzicht

Datum 08-05-2015

Auteur CESLUK-GRAJEWSKI Marcin

Beleidssterrein Consumentenbescherming | Economische en monetaire zaken | Interne markt en douane-unie

Zoekterm concurrentie | documentatie | EU-instellingen en Europese overheid | EU-mededingingsbeleid | EUROPESE UNIE | kartelvoorschriften | machtspositie | ONDERNEMING EN CONCURRENTIE | OPVOEDING, ONDERWIJS EN COMMUNICATIE | verspreiding van EU-informatie over de EU | zaakregister

Samenvatting The European Commission is pursuing a number of high-profile investigations in the competition area, highlighting the determination of the new team at the European Union's executive to be a tough enforcer of antitrust laws. Last month, the Commission sent a Statement of Objections to Google, alleging the company has abused its dominant position in the markets for general internet search services. In another Statement of Objections sent out in April, it alleges that some of Gazprom's business practices in Central and Eastern European gas markets constitute an abuse of the Russian company's dominant market position. This note offers links to commentaries, studies and reports from major international think tanks on the Google and Gazprom cases, as well as on general challenges facing EU competition policies.

Kort overzicht [EN](#)

[China: anti-trust probes targeting foreign firms](#)

Publicatietype Kort overzicht

Datum 22-10-2014

Auteur GRIEGER Gisela

Beleidssterrein Buitenlandse zaken | Internationale handel

Zoekterm antitrustwetgeving | automobieliindustrie | Azië-Oceanië | buitenlandse onderneming | China | concurrentie | controleorgaan | ECONOMIE | ECONOMIE, VERKEER EN HANDELSVERKEER | economisch beleid | economische geografie | GEOGRAFIE | handelsbeleid | handelsbeleid | INDUSTRIE | kartelvoorschriften | machtspositie | mechanische industrie | monopolie | ONDERNEMING EN CONCURRENTIE | ondernemingen | openbaarheid van het bestuur | POLITIEK | politieke organisatie | prijsvereenkomst | protectionisme | uitvoerende macht en overheidsadministratie

Samenvatting Since 2013, China's anti-trust regulators have drastically stepped up the enforcement of China's competition law against foreign firms. Major EU and Japanese automobile companies have recently been heavily fined for alleged price-fixing and monopolistic conduct.

Kort overzicht [EN](#)

[EU competition policy: key to a fair Single Market](#)

Publicatietype Uitgebreide analyse

Datum 02-06-2014

Auteur SZCZEPANSKI Marcin

Beleidssterrein Economische en monetaire zaken | Financiële en bankzaken | Interne markt en douane-unie

Zoekterm concurrentie | concurrentiebeperking | controle op concentraties | ECONOMIE | ECONOMIE, VERKEER EN HANDELSVERKEER | economische analyse | economische groei | economische recessie | economische situatie | EU-instellingen en Europese overheid | EU-mededingingsbeleid | Europese Commissie | EUROPESE UNIE | handelsbeleid | Hof van Justitie van de Europese Unie | impactonderzoek | institutionele bevoegdheid (EU) | interne markt | kartelvoorschriften | marktliberalisatie | ONDERNEMING EN CONCURRENTIE | Opbouw van Europa | toezicht op overheidssteun

Samenvatting The aim of EU competition policy is to safeguard the Single Market by ensuring that enterprises can compete on equal terms. Competition policy encompasses a wide range of areas: antitrust and cartels, merger examination, state aid, the liberalisation of markets and international cooperation. Recent developments include the private antitrust damages actions directive, the recommendation on collective redress and complex modernisation of the state aid rules. Finding effective deterrents to cartels as well as the appropriate use of settlements, commitments and leniency programmes, remain a challenge.

Uitgebreide analyse [EN](#)

Multimedia [EU competition policy: key to a fair Single Market](#)

[EU and US competition policies: Similar objectives, different approaches](#)

Publicatietype Briefing

Datum 27-03-2014

Auteur ERBACH Gregor

Beleidssterrein Economische en monetaire zaken

Zoekterm Amerika | antitrustwetgeving | bevoegdheid van het EP | concurrentie | concurrentiebeleid | concurrentiebeperking | controle op concentraties | controleorgaan | economische geografie | EU-instellingen en Europese overheid | EUROPESE UNIE | GEOGRAFIE | kartel | kartelvoorschriften | ONDERNEMING EN CONCURRENTIE | POLITIEK | politieke geografie | politieke organisatie | toezicht op overheidssteun | Verenigde Staten

Samenvatting Both the EU and the US have well-developed competition policies that aim to prevent and penalise anticompetitive behaviour. Although the EU and US systems share similar aims, there are a number of significant differences. The EU has an administrative system for antitrust enforcement, in which companies are penalised with fines. In contrast, US antitrust enforcement is based on criminal law, with financial and custodial penalties against individuals.

Briefing [EN](#)

The Product Safety and Market Surveillance Package

Publicatietype Studie
Datum 15-01-2014
Externe auteur Françoise MANIET (University of Québec in Montréal - UQAM, Canada)
Beleidssterrein Consumentenbescherming | Interne markt en douane-unie
Zoekterm Amerika | commercialisering | concurrentie | consumptie | douaneregelingen | ECONOMIE, VERKEER EN HANDELSVERKEER | economische geografie | ENERGIE | energie-industrie | energiebeleid | etiketteren | EUROPESE UNIE | financiële voorschriften | FINANCIËN | geldboete | GEOGRAFIE | gezondheid | handelsbeleid | Informatica en gegevensverwerking | intellectuele eigendom | internationale handel | kartelvoorschriften | levensmiddelenwetgeving | MILIEU | milieubeleid | milieurecht | ONDERNEMING EN CONCURRENTIE | OPVOEDING, ONDERWIJS EN COMMUNICATIE | persoonlijke gegevens | politieke geografie | product van oorsprong | PRODUCTIE, TECHNOLOGIE EN ONDERZOEK | RECHT | Recht van de Europese Unie | research en intellectuele eigendom | sanctie (EU) | SOCIALE VRAAGSTUKKEN | strafrecht | tariefbeleid | toezicht op de markt | veiligheid van het product | Verenigde Staten | vrij verkeer van kapitaal
Samenvatting In view of the dialogue negotiations on the European Commission's two proposals for a regulation on market surveillance of products and on consumer product safety, this briefing note aims to contribute to and strengthen the EP's position on Article 7 of the proposal for a regulation on Consumer product safety relating to origin marking, and the provisions relating to sanctions and penalties proposed in both files.
The briefing note presents a comparative table, showing provisions from the EU Customs Code in relation to Article 7 of the proposal for a Regulation on Consumer Product Safety and the US system of marks of origin.
It also analyses existing EU legislation containing identical or similar types of provisions on sanctions and penalties as proposed in the final IMCO reports on Consumer Product Safety and Market Surveillance of Products.
Studie [EN](#)

Port Services: Initial Appraisal of the Commission's Impact Assessment

Publicatietype Briefing
Datum 08-11-2013
Auteur MANIAKI-GRIVA Alexia
Beleidssterrein Effectbeoordeling vooraf | Vervoer
Zoekterm concurrentie | ECONOMIE, VERKEER EN HANDELSVERKEER | EUROPESE UNIE | gemeenschappelijk havenbeleid | handelsbeleid | havendienst | havenverkeer | interne markt | kartelvoorschriften | ONDERNEMING EN CONCURRENTIE | Opbouw van Europa | toegang tot de markt | toezicht op overheidssteun | trans-Europees netwerk | TRANSPORT | vervoer over zee en over binnenwateren | zeevaart
Samenvatting This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's Impact Assessment accompanying its proposal for a Regulation of the European Parliament and of the Council establishing a framework on the market access to port services and the financial transparency of ports (COM (2013) 296), submitted on 23 May 2013.
It analyses whether the principal criteria laid down in the Commission's own Impact Assessment Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.
Briefing [DE](#), [EN](#), [FR](#)

Collective Redress in Antitrust

Publicatietype Studie
Datum 12-06-2012
Externe auteur Paolo BUCCIROSSI (Lear), Michele CARPAGNANO (University of Trento), Lorenzo CIARI (Lear), Massimo TOGNONI (Lear) and Cristiana VITALE (Lear) with contributions by : Luca AGUZZONI, Marco BELLIA, Gaia BELLOMO and Riccardo ZECCHINELLI
Beleidssterrein Consumentenbescherming | EU-recht: rechtsstelsel en -handelingen
Zoekterm algemeen belang | bescherming van de consument | bevoegdheid van de EU | burgerlijke procedure | concurrentie | consumptie | doorgeven van informatie | ECONOMIE, VERKEER EN HANDELSVERKEER | EUROPESE UNIE | harmonisatie van de wetgevingen | Informatica en gegevensverwerking | informatie en informatieverwerking | juridische basis | jurisdictiebevoegdheid | kartelvoorschriften | ONDERNEMING EN CONCURRENTIE | OPVOEDING, ONDERWIJS EN COMMUNICATIE | Organisatie van de rechtspraak | RECHT | recht om voor het gerecht te treden | Recht van de Europese Unie | rechtspraak
Samenvatting Consumers regularly suffer harm in the form of higher prices, lower output, reduced quality and limited innovation as a result of antitrust infringements but they are rarely compensated due to legal and practical obstacles. Collective redress is a mechanism that may accomplish the termination or prevention of unlawful business practices which affect a multitude of claimants or the compensation for the harm caused by such illegal practices. This study analyses the systems of collective redress for breach of competition law in the area of antitrust in the EU. Starting with an overview of the relevant national and EU legislation in this area, it discusses the question of an EU-wide specific system for collective redress in antitrust and the legal basis for a legislative initiative at EU level. Finally, it assesses advantages and limits of different policy options in relation to several procedural rules both generally applying to collective actions and specifically relevant to collective redress in antitrust.
Studie [EN](#)

EU Competition Framework Policy and Agricultural Agreements : Collation and Comparative Analysis of Significant Decisions at National Level

Publicatietype Studie
Datum 15-05-2012
Externe auteur Javier GUILLEM CARRAU (Regional Parliament of Valencia, Universities of Valencia and of Cardenal Herrera-CEU)
Beleidssterrein EU-recht: rechtstelsel en -handelingen | Interne markt en douane-unie | Landbouw en plattelandontwikkeling
Zoekterm antitrustwetgeving | concurrentie | concurrentiebeperking | documentatie | FINANCIËN | gemeenschappelijk landbouwbeleid | kartelvoorschriften | LANDBOUW, BOSBOUW, EN VISSERIJ | landbouwbeleid | landbouweconomie | mededingingsregeling | ONDERNEMING EN CONCURRENTIE | OPVOEDING, ONDERWIJS EN COMMUNICATIE | prijsvorming | prijzen | vergelijkende studie
Samenvatting The establishment of a set of antitrust compatible agreements is crucial in strengthening the economic power of producers. Better regulation principles call for a smart approach to the Single CMO proposal based on the extension of rules and the promotion of compatible practices like codes of conduct, standards contracts, quality schemes or price observatories. Furthermore, there should be more emphasis given to encouraging a consistent and unique interpretation of EU Competition Law since the overall picture reflects a heterogeneity of national decisions concerning the Internal Market.
Studie [EN](#)

EU Competition Framework : Specific Rules for the Food Chain in the New CAP

Publicatietype Studie
Datum 15-05-2012
Externe auteur Catherine DEL CONT (Nantes University, France), Luc BODIGUEL (CNRS Nantes University, France) and Antonio JANNARELLI (Bari University, Italy)
Beleidssterrein Interne markt en douane-unie | Landbouw en plattelandontwikkeling
Zoekterm concurrentie | concurrentiebeleid | ECONOMIE, VERKEER EN HANDELSVERKEER | economisch verkeer | gemeenschappelijke marktordening | GLB-hervorming | handel in landbouwproducten | kartelvoorschriften | LANDBOUW, BOSBOUW, EN VISSERIJ | landbouwbedrijfsstelsel | landbouwbeleid | landbouwcorporatie | landbouwmarkt | landbouwproductie | ONDERNEMING EN CONCURRENTIE
Samenvatting To implement the CAP reform 2013, the Commission proposes a new Regulation on the common organisation of agricultural markets, COM (2011) 626 of 12.10.2011, to replace Council Regulation (EC) No 1234/2007 (consolidated by Commission Regulation COM (2010) 799), aimed to strengthen the offer and the role of farmers' associations and interbranch organisations and to clarify the competition rules. The report analyses the legal framework in force concerning agricultural competition, and the conditions of application of antitrust law to agreements and practices of farmers and farmers' associations and interbranch organisations.
Studie [EN](#)

Administrative Proceedings in the Area of EU Competition Law

Publicatietype Uitgebreide analyse
Datum 15-03-2011
Externe auteur Hendrik Viaene (Stibbe Brussels, Belgium)
Beleidssterrein EU-recht: rechtstelsel en -handelingen | Industrie
Zoekterm administratie van de instelling | administratieve procedure | antitrustwetgeving | concurrentie | controle op concentraties | doorgeven van informatie | EU-instellingen en Europese overheid | EUROPESE UNIE | Informatica en gegevensverwerking | informatie en informatieverwerking | kartelvoorschriften | klacht aan de Commissie | mededingingsregeling | ONDERNEMING EN CONCURRENTIE | OPVOEDING, ONDERWIJS EN COMMUNICATIE | POLITIEK | Recht van de Europese Unie | toegang tot EU-informatie | uitvoerende macht en overheidsadministratie
Samenvatting This study provides an overview of administrative proceedings in the area of EU competition law, more in particular, Articles 101 and 102 Treaty on the Functioning of the European Union and merger control, while focusing on different levels of procedural protection for complainants, interested third parties, and parties subject to investigation. It thereby aims to provide insight as to where – at a practical level – the prevailing procedural provisions provide an effective safeguard for the parties involved and where there is scope for improvement. The study concludes that the current body of procedural safeguards is a rich source of inspiration for any envisaged horizontal legislation concerning administrative procedures.
Uitgebreide analyse [EN](#), [ES](#)