Editor's Note

Dear Reader,

It is my pleasure to introduce the first *World Competition* issue for 2021.

The focus of this Edition of the Review lies on much debated issues related to the application of competition law to digital markets. Our authors provided, in particular, legal analysis on interesting ways to approach platforms under a competition law perspective, both in Europe and beyond. An extensive reflection on Standard Essential Patents (SEPs) and a unique empirical study on the interaction between competition law and national culture complete an edition which will surely lead to high-level debates.

The first article *The challenge of sanctioning unfair royalty rate by the SEP holder: 'when', 'how' and 'what'*, authored by Marco Botta, drives us into a fundamental topic for the functioning of our modern communications society, more and more based on SEPs. In particular, the author looks at the case of unfair royalty rate requested by the SEP holder and explore the possibility, for Competition Authorities in Europe, to use Article 102 (a) TFEU to sanction unfair royalty rates going against Fair, reasonable and non-discriminatory (FRAND) terms. The Author carries out this analysis under three perspectives: *'when'* Competition Authorities can intervene with sanctioning unfair royalty rates, '*how'* such cases should be assessed based on EU case law and *'what'* remedies can be adopted in practice.

With the second article, Roger van den Bergh and Franziska Weber trace back the German Facebook saga. As shown by the title, *The German Facebook Saga: Abuse of Dominance or Abuse of Competition Law*?, the authors take a critical view of the German Facebook case doubting that its solution lies within competition law. They propose instead to look for alternative routes in consumer contract or data protection laws. Indeed, in their views, the reached conclusion of the need to rewrite competition rules to be able to cope with market failures in digital markets stresses the limits of competition law with the risk of making it both incoherent and ineffective. Therefore, they suggest that the way out to solve this conundrum lies on the solution to the following dilemma: abusing competition law or reinforcing contract law.

The third article, *Horizontal Restraints on Platforms – How Digital Ecosystems Nudge into Rethinking the Construal of the Cartel Prohibition*, keeps us in the digital economy. Stefan Thomas analyses the collusive risks emerging from digital platforms. Indeed, on the one side, platforms can lead to collusive situations without a

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visible conspiracy thus stressing the limits of the concept of explicit collusion. On the other side though the efficiency potential of platforms, ranging from reduction of transaction costs to more choices for consumers, should be kept in mind. This creates a paradox with the construal of the law that, according to the author, should be resolved by intertwining the analysis of conduct and of effect more closely when applying the cartel prohibition in platform contexts.

With the fourth article, *The Role of (in)Formal Governance and Culture in a National Competition System: A Case of a Post-Socialist Economy*, we take a break from the digital world as Jasminka Pecotić Kaufman and Ružica Šimić Banović lead us into a unique analysis of the interaction between competition law and national culture, with a focus on a post transitional society. Based on the assumption that the implementation and enforcement of competition law could benefit of a clear understanding of the influences that culture has on competition related-decisions, the authors conducted extensive interviews within the Croatian competition community and identified three key areas which they regard as unlikely to support the competition system development: collectivism high power distance in the society; a strong influence of planned economy legacy and ultimately a conflict between the Europeanization process on one side and inherited collusion-friendly (in)formal governance mechanisms on the other side.

The fifth article, *Predatory Pricing and Platform Competition in India*, takes us back to the digital world, but this time analysed under an Indian perspective. Akanshha Agrawal focuses on the issue of predatory pricing arguing that the predation theory has not taken into account in the Indian jurisprudence related to two-sided platforms. The author, through a description of the Indian jurisprudence and a critique of the limits of the price cost test, therefore aims at applying to the Indian jurisprudence the economic theory that the prices of services offered by digital platforms are influenced not only by the costs of the services themselves, but by several other factors, including the number of users on the network.

I wish you a pleasant reading.

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