

Editor's Note

Dear Reader,

It is my pleasure to welcome you to this second issue of *World Competition* of the year.

This issue deals with extremely topical subjects, ranging from digital markets to environmental policy, with which competition law and policy will undoubtedly continue to be confronted in the months to come.

The first article deals with the *Inability-to-pay fine reductions in European cartel cases*. Garry Gabison, Ioannis Kokkoris, and Nandini Pahari explore the process by which the European Commission can consider 'the economic and social context' of cartel members when imposing fines. Through the analysis of case law and former EC investigations and by collecting data related to the companies involved in such cases, the authors aim at showing the opaqueness of this process and make recommendations with a view to make it much more transparent and predictable.

With the article entitled *Think green before you apply: EU competition law and climate-change abatement*, Jacques Buhart and David Henry reflect on the role that competition law can play in pursuing the European Union's goal to achieve climate neutrality by 2050. In order to reach this objective, the authors consider it necessary to adjust the application of both Article 101 (3) TFEU and the EU merger regulation and put forward some suggestions for the European Commission to better secure the EU Green Deal objectives by way of actions taken at the interplay between competition law and environmental policy.

The last three articles bring us at the heart of the competition law debate surrounding digital platforms. The first two of the three, Dzhuliia Lypalo and Alexandre Köhler, are the *ex aequo* winners of the best thesis in competition law and economics of the College of Europe of last academic year.

Dzhuliia Lypalo looks at the specific concerns arising from the collection of personal data by digital platforms. In her article, *Can Competition Protect Privacy? An Analysis Based on the German Facebook Case*, the decision of the German Competition Authority and the recent European Commission proposal on a Digital Markets Act are analysed in detail with the aim to determine whether an intervention in competition law is needed in order to enhance data protection rules. According to the author, the answer should be in the negative. A direct intervention is indeed regarded both as an obstacle to innovation and as an unnecessary burden for interested undertakings.

Alexandre Köhler reflects on the same issue related to data processing by digital companies, but under the specific online advertising angle. As the title may suggest, with the article *Online Advertising and the Competition for Data: What Abuse are we looking for?* the author looks at the intersection between the advertisement market and the consumer-facing markets, and, more specifically, at the particular problems that data extraction between those two markets pose with regards to competition. This analysis ultimately led the author to propose an analytical framework under which third-party data should be gathered, while considering the exclusionary effects on the advertising side of platforms.

With the last article, *Innovation: an antitrust trojan horse?*, we remain in the high-tech markets. Shaurya Aron makes the case for a legal recognition, with specific regards to the Indian jurisdiction, of predatory innovation as anti-competitive conduct in high-tech markets, with the final objective to enhance consumer welfare. Following an analysis of the relationship between innovation and market structure, the author ultimately calls for competition authorities to recognize the notion of predatory innovation.

I wish you a pleasant reading.

José Rivas
Editor
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