

Editorial

Dear Reader,

It is with great pleasure that I introduce the first issue of *World Competition* for 2023.

This issue is a particularly compelling one, given the quality of the contributions and the strong focus on one of the most rapidly developing sectors of competition law: digital markets.

Our issue 46(1) opens with another timely topic. Indeed, 2023 marks a special occasion for a particular reason: Regulation 1/2003, the cornerstone of EU competition law enforcement, turns twenty. That much time has passed by since the European Commission implemented its purpose to transform EU competition law enforcement, based on two main objectives: the decentralization of EU competition law, and a greater focus by the Commission on the most serious infringements. In his article ***Regulation 1/2003: An Assessment After Twenty Years***, Wouter Wils, former Hearing Officer at the European Commission and our most regular contributor, brilliantly analyses the reasons behind that change, the process leading to adoption of the Regulation – from the Modernization Group until its approval – and the success experienced in the attainment of the mentioned objectives. Wils considers the Regulation to have surpassed the expectations when it comes to the role played by National Competition Authorities and the European Competition Network. As for the enforcement action of the European Commission, the author looks into the stagnation in the number of prohibition decisions, and the potential reasons behind it. The article nevertheless considers Regulation 1/2003 a success given the overall growth of EU competition law enforcement.

The remaining contributions focus, as anticipated, on different aspects of the digital economy. The first two are EU-related, while the last one will take us all the way to the Asian continent.

The first of those articles is ***Digital ecosystems in the wake of a regulatory turmoil: a first (tentative) antitrust assessment of the Italian (and European) experience in the AGCM case law***. The piece, authored by Nicola Faraone and Victoria Falce, studies so-called digital ecosystems and the different antitrust regulatory proposals both at EU and Member State level and exhaustively covers the notion of ecosystem and its relevance for competition law enforcement. Extracting conclusions from the specific case of the Italian Competition

Authority decisional practice, the article considers the coexistence of traditional competition proceedings with the EU recent approach to ex-ante regulations on this area, namely the DMA.

Following up, ***‘Everything the data touches is our kingdom’: Market power of ‘Data Ecosystems’***, brought by Peter van der Waerdt, deals again with the notion of digital ecosystem. This piece focuses specifically on data as the most powerful resource in the hands of digital conglomerates – or ‘data ecosystems’ – for their purpose of gaining, ensuring, and expanding their market power. The article advocates for a new approach in the definition of that concept, one that accounts for the protagonist role played by data in the business model of ecosystems. In order to fully address that role, it is argued, an integration of data protection within competition law is necessary. The author analyses the distinct characteristics of digital ecosystems and the network effects generated by data and adopts a critical stance towards the approach adopted by the European Union around them, which allegedly underestimates its true relevance, particularly in the realm of merger control.

Closing the issue, one last article centred on the digital economy, this time outside the European Union, in Japan. In ***Three E-commerce Case Studies in the Context of Japanese Competition Enforcement: Comparative Considerations with the US Experience*** the authors Yuichiro Hayakawa and Koki Arai strike a comparison between the enforcement approach adopted by the Japanese competition authorities and that adopted on the other side of the Pacific. In its article, three cases against Amazon, Rakuten and Apple serve as a backdrop from which lessons are extracted lessons on five areas of competition law enforcement in the digital economy: the identification of the relevant market, the status of the parties in a transaction, abusive behaviour, consumer harm and remedies.

Wishing you a pleasant reading,

Jose Rivas