

Editor's Note

Dear Reader,

It is with great pleasure that I present to you this year's fourth issue of *World Competition*.

This issue covers a wide range of topics, with a strong focus on digital matters. The issue includes contributions on resale price maintenance (RPM), the Commission's investigation into Meta's 'consent or pay' policy, the challenges faced by EU competition law in terms of privacy in digital markets, the extra-territorial effects of the Digital Markets Act (DMA), self-preferencing in Korean and Japan, and India's draft regulation for digital markets.

The first article deals with the latest case law on RPM. In ***RPM in EU competition law: Understanding the significance of Super Bock***, Pablo Ibáñez Colomo seeks to explain in detail why the *Super Bock* judgment of the Court of Justice of the EU potentially entails a significant change in the EU case law and discuss, in light of other recent developments, the concrete consequences it might (or might not) have in practice. In this respect, according to the author, it is conceivable that, at least in some scenarios, vertical price-fixing does not have, as its object, the restriction of competition.

The second article takes stock of one of the obligations for gatekeepers. In ***The European Commission's challenge to consent or pay: Demystifying the DMA?***, Malte Frank and Emma Lewis examine Article 5(2) of the DMA, which requires gatekeepers to offer users a choice to opt-out of the data exchanges across a gatekeeper's services. The article focuses its analysis on the Commission's allegation that Meta's 'consent or pay' model is not compliant with Article 5(2) DMA. The authors argue that the Commission is in a situation where there is little room for manoeuvre and that, regardless of the path it chooses in the Meta case, it will have a discrediting effect on the DMA and harm the Commission's role as a global regulator.

The third contribution deals with the interesting issue of how digital market operators can obtain an unmatched information advantage with respect to the preferences of platform users by implementing privacy-related regulation. Its author, Thomas Weck, studies the topic at length in ***Gatekeeping with Privacy: The Facebook case, Apple's ATT framework and Google's privacy sandbox***. In this article, Thomas argues that implementing privacy-related regulation may violate competition law if it is done in an exclusionary or exploitative manner, but not

simply because following the rules increases entry barriers and the dependency of other online service providers. To that end, he analyses the cases of Facebook, Apple and Google to exemplify that operators of large digital ecosystems may be able to consolidate their market power and cross-market power even by fully complying with the existing rules.

The fourth article offers a non-EU perspective of the DMA. In *Extraterritorial effects of the DMA: The ‘elusive long arm’ of the European digital regulation*, Helena Drewes and Alexander Kirk delve into how the DMA will shape digital markets beyond the EU single market. The authors assess the conditions under which digital regulation takes effect beyond the EU. The article also discusses whether it is legitimate that the EU imposes its understanding of how digital markets should work on other jurisdictions.

The fifth contribution takes us to Asia with *Self-preferencing in Korea and Japan*. Its authors, Yo Sop Choi and Kazuhiko Fuchikawa, examine the numerous antitrust cases dealing with self-preferencing in Korea and Japan. The article reviews Japan and Korea’s unique competition provisions on unfair trade practices that can deal with unfair conduct, including self-preferencing of algorithmic changes or manipulations that can harm third parties and/or consumers.

For the last article, Kolawole Afuwape makes a comparison of the ex-ante regulations between India’s draft Digital Competition Bill (DCB) with that of the EU’s DMA. In *Analysing the ex-ante regulations in India’s DCB and its effects on Indian business interests*, the author traces the evolution and emerging design of the forthcoming Indian digital markets regime in contrast to the DMA of the EU. The article also proposes to expand the competition enforcement by adopting a ‘rulemaking’ approach to reduce the market-wide uncertainty, and cost of litigation and reduce unexpected outcomes.

I wish you a pleasant reading.

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