

Short description of the parallel sessions

| | Abstract | Speakers |
|--|---|---|
| A.1. UK – merger - Sainsbury Asda | The CMA recently prohibited the acquisition by Sainsbury’s of Asda following competition concerns in supermarket groceries, online delivered groceries and motor fuel. The CMA’s concerns included that the Parties would have had an incentive to raise prices or reduce quality in their supermarkets on a nationwide basis. The panel will discuss some of the economics of the case, focusing on supermarket groceries. | Chair: Dominik Erharder (BWB) Robert Ryan (CMA) Matthew Bennett (CRAI) Academic: Massimo Motta (Universitat Pompeu Fabra) |
| A.2. Germany - antitrust – Facebook | The Bundeskartellamt in February 2019 prohibited Facebook from making the use of its social network conditional on users’ consent that Facebook collects user data also outside of the Facebook website or on other smartphone apps and to assign these data to the user’s Facebook account. Facebook was granted interim relief in August 2019 by the Düsseldorf Higher Regional Court; the Bundeskartellamt’s appeal against this decision is pending. The Bundeskartellamt used the GDPR as a yardstick for its evaluation of whether Facebook’s terms of contract vis-à-vis private users were excessive in the sense of dominance abuse provisions. It argued that users’ consent was not freely given as Facebook was dominant and as it did not allow usage without consenting to “off-Facebook” data collection and processing. Facebook responded that inter alia it was not dominant, that users benefitted from data collection and that competition authorities were not competent to challenge possibly “excessive” data collection. The parties’ economic expert criticized inter alia that the Bundeskartellamt did not quantify consumer harm and consumer benefit arising from the challenged behavior. | Chair: Kirsten Edwards-Warren (Compass Lexecon) Arno Rasek (BKartA) David Evans (Global Economics Group and UCL) Academic: Martin Peitz (University of Mannheim) |
| A.3. Israël – antitrust – Excessive pricing in the hard cheese (Tnuva) case | Excessive pricing by a dominant firm is considered an unlawful abuse of dominant position in many countries, including Israel. Yet, the prohibition of excessive pricing is highly controversial and | Chair: Raphaël De Coninck (CRAI) |

| | Abstract | Speakers |
|--|---|--|
| | <p>antitrust agencies are reluctant to bring excessive price cases against dominant firms. Part of the controversy stems from the fact that we still know very little about the competitive effects of the antitrust prohibition of excessive pricing both in terms of theory, as well in terms of empirical research. A main obstacle to effective implementation of the prohibition of excessive pricing is the lack of a commonly agreed upon definition of what constitutes an "excessive price," or how to measure it.</p> <p>This session will examine this issues by focusing on a recent class action from Israel brought by the Israel consumer council against Tnuva, which is the dominant firm in the dairy market. The class action alleges that Tnuva charged excessive prices for pre-packaged yellow cheese (the generic name in Israel for hard cheese) based on the fact that prices increased substantially after price controls were lifted in 2007. By comparison, the price of the same cheese sold by weight stayed under price control and virtually did not change. The cases raises a number of interesting questions regarding the right benchmark for establishing that a price is excessive and regarding the size of deviation of the actual price from the benchmark needed to establish that a price is indeed excessive.</p> | <p>Yossi Spiegel (expert for the Israel Consumer Council, Tel-Aviv University) Menachem Perlman (expert for Tnuva, Perlman & co) Academic: Marius Schwartz (Georgetown University)</p> |
| A.4. UK – national regulation – BBC iPlayer | <p>Changing viewing habits and the rise of the digital giants is raising challenges for both public and commercial broadcasters. In this context, the BBC proposed changes to make its BBC iPlayer video-on-demand service a more attractive destination particularly by making most BBC programmes available for 12 months. Ofcom assessed the competitive impact of the proposal and recently issued its decision concluding that the adverse impact on competition would be justified by the public value of the changes. The case raises interesting issues in how to measure competitive effects in this market and how these should be weighed against broader public benefits.</p> | <p>Chair: Paul Reynolds (Compass Lexecon) Adrien Cervera-Jackson (Ofcom) Natalie Timan (Chief Economist BBC) Academic: Rosa Ferrer (UPF)</p> |

| | Abstract | Speakers |
|--|--|--|
| B.1 EU abuse case - Qualcomm Predation | <p>This case concerns UMTS baseband chipsets, which allow for voice and data transmission in mobile devices (smartphones, tablets, etc). The Commission found that Qualcomm abused its dominant position in this market between mid-2009 and mid-2011 by engaging in “predatory pricing”: Qualcomm sold certain quantities of three of its UMTS chipsets below cost to Huawei and ZTE, two strategically important customers, with the intention of eliminating Icera, its main rival at the time in the market segment offering advanced data rate performance. This behaviour was intended to prevent Icera from building market presence and becoming a growing threat to Qualcomm's broader chipset business. The Commission's conclusion that Qualcomm engaged in predatory pricing during the period investigated is based on: (i) a price-cost test for the three Qualcomm chipsets concerned; (ii) a broad range of qualitative evidence demonstrating the intent.</p> | <p>Chair: Benoît Durand (RBB)</p> <p>Liliane Karlinger (DG Comp) Lau Nilausen (FTI Consulting) Academic: Yossi Spiegel (Tel-Aviv University)</p> |
| B.2 Germany – merger – Horizon Brink | <p>The case is about an abandoned merger between two leading producers of towbars for cars, the market leader Horizon and the number three Brink. The Bundeskartellamt argued that the merger would have led to substantial unilateral effects in particular as the production capacities of the remaining competitors were limited and because of barriers to entry and expansion. Moreover, the Bundeskartellamt held that the merger would have increased the likelihood of coordination as only two competitors on the technology edge would remain for participating on tenders. Among the interesting economic issues was the quality and suitability of ‘tender’ data. The Bundeskartellamt made a comprehensive bidding analysis and also the economic consultancy to the parties did so. The two sides worked on different tender data sets and came to opposing conclusions about likely merger effects.</p> | <p>Chair: Alexis Walckiers (BCA)</p> <p>Marcel Balz (BKartA) Ela Głowicka (E.CA Economics) Academic: Markus Reisinger (Frankfurt School of Finance & Management)</p> |
| B.3. France – merger – Cofigeo Agripole | <p>Cofigeo notified the French Competition Authority (FCA) of its intention to acquire exclusive control of the “cooked meals” arm of Agripole group. Agripole was risking bankruptcy, and Cofigeo presented a failing-firm defence argument that the FCA rejected.</p> | <p>Chair: Georges Siotis (UC3M, Compass Lexecon)</p> <p>Cédric Nouel (AdIC)</p> |

| | Abstract | Speakers |
|--|--|--|
| | <p>The FCA considered the merger was likely to create a quasi-monopoly in the markets for the production of canned Italian and exotic cooked meals in France insofar as Cofigeo, the n°2 in the market, was to acquire Agripole, the n°1 in the market. The FCA finally cleared the transaction provided that Cofigeo sold one brand and one production site to a third party operator in order to enable the latter to stimulate competition in the market. The economic analysis included customer surveys, diversion ratios as well as GUPPI calculations and merger simulation models.</p> <p>The Minister of Economics exerted his “evocation” power: based on employment and industrial development considerations, he cleared the proposed merger without the remedies imposed by the FCA.</p> | <p>Guillaume Duquesne & Scott Holbrook (Compass Lexecon) Academic: Bruce Lyons (University of East Anglia)</p> |
| B.4. Finland –antitrust – Damages in forest cartel case | <p>The Finnish Wood Cartel case is a set of follow-on damage cases building on a Market Court decision from December 2009 finding that three forestry companies had participated in illegal cooperation in the purchasing of wood from upstream suppliers. Thereafter, a number of wood suppliers claimed damages from the three forestry companies arguing that they had been paid to low prices for wood in a period from 1997 to 2004. The parties brought a wealth of economists and economic analysis to the table with very different results, but in May 2018 the Helsinki Court of Appeal finally rejected all damage claims. The decision was strongly influenced by the economic analyses and the Court made explicit choices about what economic analysis to trust and what not to trust.</p> | <p>Chair: Antonio Butta (AGCM) Claus Kastberg Nielsen / Asger Lunde (Copenhagen Economics) Nadine Watson (Compass Lexecon) Jouni Sohkanen (Oxera) Academic: Helena Perrone (University of Mannheim)</p> |
| C.1. EU state aid – Postal cases | <p>The Commission has recently adopted two decisions on the compensation of the public service obligations of La Poste and Poste Italiane to distribute press at reduced tariffs. In these two decisions, particular attention has been devoted to the analysis of the net avoidable cost to establish the maximum levels of compensation compatible with state aid rules. These exercises have devoted particular attention to the construction of</p> | <p>Chair: Iestyn Williams (RBB) Lluís Sauri (DG Comp) Nicole Robins (Oxera) Academic: Joan-Ramon Borrell (UB School of Economics)</p> |

| | Abstract | Speakers |
|---|---|--|
| | <p>competitive counterfactuals, as a necessary means to identify avoidable costs and counterfactual revenues. It has involved identifying the nature of the costs incurred in the provision of the service, looking at the price elasticities of the demand for press distribution services and explicitly looking at the competitive constraints that might emerge in the counterfactual scenario. These two decisions build on the previous decisions taken by the Commission in the area and provide further guidance on the application of net avoidable cost analysis to state aid cases.</p> | |
| <p>C2.2. Netherlands – merger – Sanoma Learning/Iddink Group</p> | <p>This case discusses the acquisition of Iddink Group, a distributor of educational materials, by publisher Sanoma Learning. Iddink Group also owns Magister, a learning management system (LMS) that many secondary schools in the Netherlands use. Sanoma Learning owns publisher Malmberg, a publisher of educational materials (including digital educational materials). Schools are using more and more digital educational materials, and customized education is becoming increasingly important. Many schools use Magister, this LMS plays a critical role in our educational system. According to the two merging companies, the acquisition will create opportunities to respond to these trends by enabling further innovation in the publishing and offering of digital educational materials.</p> <p>ACM wishes to prevent Malmberg’s competitors from having fewer opportunities to offer their educational materials to schools and students through Magister. Therefore, Malmberg’s competitors must be granted access to Magister under equal conditions as Malmberg. Also, they have to be granted access to Magister’s data in the same way as Malmberg does. They need this data to improve their products and services. Finally, Sanoma Learning must ensure that commercially sensitive information of competing publishers cannot reach Malmberg through Iddink. In this way, other publishers will continue to have the incentive to keep innovating.</p> | <p>Chair: David Spector (Paris School of Economics / KPMG Economics)</p> <p>Peter Dijkstra (ACM) Maurice de Valois Turk (Oxera) Academic: Nick Vikander (University of Copenhagen)</p> |

| | Abstract | Speakers |
|--|--|---|
| C.3. Denmark - merger – Tryg Alka | In November 2018, the Danish Competition and Consumer Authority (DCCA) approved the merger between Tryg and Alka subject to remedies, forming the largest insurance group in Denmark. During the investigation, the DCCA collected and combined detailed data from several individual firms, and carried out econometric demand estimation and merger simulation. The case presentation will focus on the experiences with data collection, as well as the insights and challenges encountered during the econometric analyses of demand for insurance policies. | Chair: Hans Friederiszick (E.CA) Kenneth Baltzer (DCCA) Asger Lunde/Torben Pedersen (Copenhagen Economics) Academic: Frode Steen (Norwegian School of Economics) |
| C.4. Sweden - antitrust – Booking/Visita Case | The Booking/Visita case is about narrow price parity clauses in the online hotel booking market in Sweden. In May 2019, the Market and Patent Appellate court in Stockholm overruled the decision from the lower court, in which these clauses were deemed distortive of competition and therefore illegal. Economic evidence was central to both Court’s reasoning, yet they arrived at completely different conclusions. How is that possible? Come to session C.4 and you will learn! | Chair: Kurt Brekke (konkurransetsilsynet) Karl Lundvall or colleague (Copenhagen Economics) Tim Reuter (RBB) Academic: Thibaud Vergé (TSE) |
| D.1. EU merger - Siemens / Alstom | The transaction concerned Siemens' proposed acquisition of Alstom. Both Siemens and Alstom were active worldwide in the rail transport industry, holding leading positions globally. The transaction would have brought together the two largest suppliers of various types of railway and metro signalling systems, as well as of rolling stock in Europe. After a phase II investigation, the Commission found that the transaction would have significantly reduced competition for (1) railway signalling systems and (2) very high-speed trains in Europe. The parties did not bring forward substantiated arguments to explain why the transaction would have created merger specific efficiencies and did not offer remedies capable of addressing the Commission’s concerns. As a result, in February 2019 the Commission prohibited the transaction. | Chair: Oliver Latham (CRA) David Kovo (DG COMP) Vilen Lipatov (Compass Lexecon) Joan de Solà-Morales or Bojana Ignjatovic (RBB) Academic: Marc Ivaldi (TSE) |

| | Abstract | Speakers |
|---|--|---|
| D.2. Belgium - merger – Telenet/DVM – Media Merger | <p>In May 2019, the Belgian Competition Authority cleared Telenet’s acquisition of De Vijver Media, subject to remedies. Telenet is a Belgian cable network operator, mainly active in the Flemish region. Liberty Global is the controlling shareholder. The transaction gave Telenet sole control over De Vijver Media, a broadcaster of Flemish television channels via its subsidiary SBS and a producer of television content via its subsidiary Woestijnvis.</p> <p>Television channels are an input for cable operators, who distribute them to their subscribers. Hence, the focus of the investigation was on identifying and quantifying the vertical effects of the transaction. The decision also discusses the role that data, platforms and algorithms play in the distribution of television content. Of the several theories of harm that have been investigated, four have been withheld and have led to behavioural remedies: i.) Foreclosure of SBS-channels for distribution platforms competing with Telenet; ii.) Partial foreclosure of Telenets distribution platform for competing broadcasters; iii.) foreclosure of the AVAD-platform of Telenet for competing broadcasters and iv.) foreclosure of access to their own user data for competing broadcasters.</p> | <p>Chair: Ana Sofia Rodrigues (AdC)</p> <p>Griet Jans (BCA) Helen Weeds (CRA) Academic: Patrick Van Cayseele (KU Leuven)</p> |
| D.3. Italy - antitrust – Taxi Dispatch Services | <p>In June 2018, the Italian Competition Authority found that the exclusivity clauses in the agreements governing the relationships between “traditional” taxi dispatch services and taxi drivers in Rome and Milan restricted competition, having the (cumulative) effect of hindering the expansion of innovative online platforms in the market. The investigation was launched following a complaint filed by MyTaxi, a digital-only application to book, pay and rate taxi rides via smartphones. These cases provide the opportunity to discuss several interesting economic issues related to platforms such as: i) the substitutability between digital platforms and traditional services; ii) the analysis of two-sided markets; iii) the impact of multi-homing; and iv) the role of network externalities.</p> | <p>Chair: Javier Garcia Verdugo (CNMC)</p> <p>Antonio Butta (AGCM) Rossella Mossucca (Lear) Academic: Giacomo Calzolari (European University Institute)</p> |

| | Abstract | Speakers |
|---|---|--|
| D.4. Netherlands - antitrust – Predation | ACM fined NS (the Dutch railway incumbent) for submitting a bid in a public transport tender that had a anti-competitive rationale and could not be replicated by an equally efficient competitor, and therefore amounted to abuse of NS' dominant position on rail services. The Rotterdam Court annulled the fine for, amongst others, lack of evidence of a dominant position. ACM has appealed this ruling. | Chair: Adina Claiici (Copenhagen Economics) Jan Tichem (ACM) Gunnar Niels (Oxera) Academic: Germain Gaudin (Copenhagen Business School) |