



ANTITRUST ENFORCEMENT IN DIGITAL MARKETS: TRAINING FOR NATIONAL JUDGES

Enforcement in the framework of Article 102 TFEU and merger control

Düsseldorf,
13-14 December 2018



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**Competition
Law**

Confirmed speakers

Pinar Akman

Professor of Law and Director of the Centre for Business Law and Practice, University of Leeds

Werner Berg

Partner, Baker McKenzie, Brussels

David Jevons

Partner, Oxera, Oxford

Rainer Nitsche

Managing Director E.CA Economics, Berlin/ Brussels

Robert O'Donoghue QC

Barrister, Brick Court Chambers, London

Key topics

- Characteristics of digital and multi-sided markets
- Market definition in multi-sided markets
- Assessing market power and dominance in digital and multi-sided markets
- Unilateral abusive practices in the online world
- The specific role of data
- Merger control in digital and multi-sided markets

Language
English and German
(with simultaneous interpretation)

Event number
218DT62

Organiser
ERA (Avgustina Dorich) in
cooperation with the Ministry of
Justice of North Rhine-Westphalia



Co-funded by the Training of National Judges
Programme of the European Union

ANTITRUST ENFORCEMENT IN DIGITAL MARKETS: TRAINING FOR NATIONAL JUDGES

Thursday, 13 December 2018

09:00 Arrival and registration of participants

09:20 **Welcome words**
Avgustina Lazarova, ERA

I. INTRODUCTION

9:30 **The role of the national judge in applying EU competition law in the digital age**

- Main challenges
- Recent cases

10:15 Q&A and discussion

10:30 Coffee break

11:00 **Characteristics of digital and multi-sided markets. Market definition**

- Direct and indirect network effects
- Types of business models
- Way of functioning of digital markets
- The role of data and “attention”
- Defining the relevant market

Rainer Nitsche

12:00 Q&A and discussion

12:15 Lunch

II. ABUSE OF DOMINANCE

13:30 **Assessing market power and dominance in digital markets**

- The relevance of direct and indirect network effects
- Single-homing and multi-homing
- Contestability of the market
- The role of innovation
- “The winner-takes it all” competition

David Jevons

14:15 Q&A and discussion

14:30 Coffee break

15:00 **Unilateral anticompetitive conduct in digital markets**

- Theories of harm
- Exclusive dealing, predation, tying and bundling, discrimination, MFN (parity) clauses
- New forms of abuses in the digital era?
- Abuse of market power in one side of a market

Robert O'Donoghue

16:00 Q&A and discussion

16:15 **Workshop: abuse of dominance in multi-sided markets**

Robert O'Donoghue

17:45 End of the first day

19:00 Seminar dinner

Objective

Recent years have seen the booming of e-commerce, online platforms and digital markets, which in turn influences competition analysis and has brought up the question of whether “traditional” competition enforcement appropriately addresses recent developments and novel issues. Consequently, national courts are required to be up-to-date on the particularities of digital markets in order to be able to review national competition authorities’ decisions and factor them into their judgments.

This seminar for national judges aims to analyse and define digital markets and the behaviour of undertakings in the online world in order to assess their conformity with EU and national competition rules on anti-competitive agreements.

Who should attend?

National judges dealing with the review of national competition authorities’ decisions and final-instance judges dealing with antitrust/merger cases

Venue

Higher Regional Court of Düsseldorf
Cecilienallee 3
40474 Düsseldorf

Friday, 14 December 2018

09:00 Arrival and registration of participants

09:15 **The role of the "free" side of a market: the role of data**

- Can a relevant market of data be defined?
- The multiple faces of data
- Data-related abuses
- Privacy concerns

Pinar Akman

10:00 Q&A and discussion

10:15 Coffee break

III. MERGER CONTROL

10:45 **Merger control in digital and multi-sided markets**

- Main factors playing a role in merger assessment
- Major challenges
- The role of network effects
- Efficiencies for consumers
- Remedies/commitments
- Recent merger cases before the European Commission

Werner Berg

11:45 **Case study on merger control**

Werner Berg

12:45 Q&A and discussion

13:00 End of the seminar

For programme updates: www.era.int
Programme may be subject to amendment.

About the project

This seminar is part of an ERA project on competition law for national judges, which is co-funded by the Training of National Judges Programme of the European Union. It consists of two seminars taking place in 2018 in Budapest and Düsseldorf.

Your contact persons



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Europäische Rechtsakademie
Academy of European Law
Académie de Droit Européen
Accademia di Diritto Europeo

Conditions of participation

1. Participation is open to applicants belonging to one of the following groups:
 - national judges, assistant and apprentice judges, prosecutors and members of judicial court staff dealing with the review of national competition authorities' decisions
 - national judges, assistant and apprentice judges, prosecutors and members of judicial court staff dealing with antitrust/merger cases at final instance (a final-instance judge may be of an appeal court, if this court's decisions cannot be further challenged).

Candidates who do not belong to one of these two groups will not be selected for participation. Applications can be made until **13 October 2018**.

2. Only a limited number of places is available for the training. A response will be given to every applicant shortly after this deadline. Participation is confirmed only upon receiving a written response from the organisers. A reserve list of unsuccessful applicants will be drawn up. In the event of cancellations, applicants on the reserve list will be offered a place.
3. **Participation is free of charge.**
4. Participants are responsible for making their own travel and accommodation arrangements. Applicants are advised not to book any tickets and accommodation before receiving the organisers' confirmation.
5. Travel costs for participants travelling by plane will be reimbursed up to a maximum amount of €400 and travel costs of participants travelling by train or car will be reimbursed up to a maximum of €200 subject to submission of the originals of travel receipts to be sent in within one month after the training.
6. The costs for accommodation for 2 nights (12 and 13 December 2018) will be reimbursed by ERA up to a maximum amount of €115 per night.
7. Lunch, beverages consumed during the event, the conference documents and the conference dinner on 13 December are offered by ERA.
8. A certificate of attendance will be issued after the training
9. **Participation in the whole course is required. Participants must not make travel arrangements that require them to leave the seminar before its end. Filling in the seminar evaluation form is also mandatory. Failure to attend the entire course and/or to fill out the evaluation form will automatically mean that the participant is not entitled to a certificate of attendance or to reimbursement of travel costs.**
10. **Please note that in the event of cancellation or failure to attend ERA will charge for the costs arising as a result thereof, e.g. for any hotel and/or travel arrangements made.**
11. A list of participants including each participant's address will be made available to all participants unless ERA receives written objection from the participant no later than one week prior to the beginning of the event.
12. The participant's address and other relevant information will be stored in ERA's database in order to provide information about future ERA events, publications and/or other developments in the participant's area of interest unless the participant indicates that he or she does not wish the Academy to do so.