



Brugge

GCLC

College of Europe
Collège d'Europe

Global Competition Law



Natolin

Center

17th GCLC ANNUAL CONFERENCE

THE TRANSFORMATION OF EU COMPETITION LAW: NEXT GENERATION ISSUES

**25-26 March 2022
COLLEGE OF EUROPE, BRUGES**

Two decades ago, the EU revolutionised the enforcement of its competition rules and "modernised" them (a) by replacing the old "form-based" system with an "effects-based" one, as well as (b) by decentralising and at the same time harmonising the enforcement of EU competition law across the EU.

On both subjects, it is appropriate to examine whether this policy still offers the right responses to a rapidly changing world.

(a) As to the "effects-based" approach, demands are occasionally being made for a departure from the prevailing "free competition" model towards a more "interventionist" model of "fair competition", focusing on "results" rather than "process". The DMA proposal is only one example. At the same time, arguments are made for a more "political" application of the rules (ideas of "industrial policy", defence of "national or EU champions", "digital sovereignty", etc.), or also for a reconsideration of the balancing of competition enforcement with political aims other than consumer welfare and competitive markets (sustainability, climate change, environmental protection, media plurality, digital neutrality, social cohesion and equality, etc.).

(b) As to the national or decentralised EU competition enforcement, there is increasingly a noticeable fragmentation in various Member States. The resurrection of old tools such as "abuse of economic dependence" and the introduction of sui generis competition law regimes only for specific sectors or – indeed companies – are only some examples.

Another example is the willingness of some NCAs to question the basic standards behind the application of competition law and introduce new methods for the identification and quantification of harms and benefits.

Two decades ago, State aid policy had likewise entered a wave of modernisation that apparently culminated, ten years later, with the adoption of the SAM 2012 Communication. However, the reshaping and refocusing of State aid enforcement did not stop there, rather its pace increased and a more comprehensive modernisation is still ongoing, also as a result of the pandemic.

This year's conference will attempt to take stock of the situation, to assess successes and failures of "modernisation" and to see whether adaptation to it is justified and when.

DAY 1

09:00-09:30 Registration

09:30-09:40 Welcome Address

Federica Mogherini
Rector, College of Europe

09:40-09:55 Presentation of the Conference

Denis Waelbroeck
Ashurst; Université Libre de Bruxelles; GCLC

Assimakis Komninou
White & Case; GCLC

10:00-10:20 Keynote Speech

Margrethe Vestager
Executive Vice-President, European Commission
Commissioner for Competition

10:20-10:35 Q&A Session

Panel 1 – Modernisation in hindsight

Chair: **Denis Waelbroeck**
Ashurst; Université Libre de Bruxelles; GCLC

10:35-10:55 Twenty years later: Highlighting the main innovations of the effects-based approach and assessing where we stand. Does this policy still offer the right responses to a rapidly changing world?

Luc Peepkorn
College of Europe; Brussels School of Competition

10:55-11:15 A historic perspective on the European debate between the competition-only criterion and the "public interest" approach

Laurent Warlouzet
Paris Sorbonne Université

11:15-11:30 Coffee Break

Panel 2 – A return of the pendulum: moving back to a more regulated approach?

Chair: **Adina Claici**
The Brattle Group; GCLC

11:30-11:50 How to deal with the digital world – a new law on gatekeepers?

Inge Bernaerts
European Commission

11:50-12:10 "European champions", digital sovereignty and industrial policy

Isabelle De Silva
Conseil d'État

12:10-12:30 How best to reconcile competition policy with green transition – Any need for a change?

Kirsi Leivo
Finnish Competition Authority

12:30-12:40 Competition law on the defence?

Jorge Padilla
Compass Lexecon

12:40-13:00 Q&A Session

13:00-14:30 Lunch

Panel 3 – From harmonization to a renewed fragmentation?

Chair: **Bernd Meyring**
Linklaters; GCLC

14:30-14:50 Decentralisation of competition law enforcement and its challenges. Where do we stand and need for a change?

Krystyna Kowalik-Bańczyk
General Court of the EU

14:50-15:10 Article 3(2) and (3) of Regulation 1/2003 and increased use of the exceptions – where do we stand? Any legal limit to the freedom of Member States?

Nicolas Petit
European University Institute; GCLC

15:10-15:30 Harmful fragmentation v. healthy experimentation and competition of competition orders?

Giorgio Monti
Tilburg University

15:30-15:50 Q&A Session

15:50-16:10 Coffee break

Panel 4 – Post-modern antitrust: is there a need to adjust the substantive baselines?

Chair: Carles Esteva Mosso
Latham & Watkins

16:10-16:30 Is the effects-based approach too cumbersome and fails to provide enough legal certainty?

Fernando Castillo de la Torre
European Commission

16:30-16:50 The consumer welfare standard – a “problem” to fix in EU competition law?

Assimakis Komninou
White & Case; GCLC

16:50-17:10 Is there an alternative to the effects-based approach and the consumer welfare standard?

Damien Neven

The Graduate Institute; Compass Lexecon

17:10-17:30 Do we need to change the test of merger control?

Konrad Ost
Bundeskartellamt

17:30-18:00 Q&A Session

DAY 2

Panel 5 - The transformation of State aid law and policy: modernisation relaunched and the link with crisis management

Chair: **Massimo Merola**
BonelliErede; GCLC

09:00-09:20 State aid modernisation over a period of fifteen years, and in the response to the crisis

Bernard van de Walle de Ghelcke
Linklaters

09:20-09:40 The new forms of “communautarisation” of State aids with a focus on the green and digital objectives, and the legal and political implications

Leo Flynn
European Commission

09:40-10:00 “Less and better targeted State aid” (SAAP – liberal model) or an increasing centralised combined State/EU aid (regulated model)? Alternative or complementary models?

Andrea Biondi
King’s College

10:00-10:20 Should we adapt the centralised enforcement system in the new era?

Jacques Derenne
Sheppard Mullin; Université de Liège; GCLC

10:20-10:30 Q&A Session

10:30-10.45 Coffee break

Panel 6 – What role for the courts in the post-modernisation era?

Chair: **Damien Gerard**
Belgian Competition Authority; GCLC

10:45-11:05 The role of the EU Courts: a view from the Bar
Alfonso Lamadrid
Garrigues

11:05-11.25 The role of national courts: a view from the Bench
Ingeborg Simonsson
Stockholm City Court

11:25-11:45 The preliminary ruling procedure: in need of rethinking?
Marc van der Woude
General Court of the EU

11:45-12:00 Q&A Session

Enforcers Roundtable: Quo vadis?

Chair: **Sir Philip Lowe**
Oxera

12:00-13:15 Enforcers Roundtable: *Quo vadis?* Free competition vs regulated competition as alternative or as complementary models?

Inge Bernaerts (European Commission)

Cani Fernández-Vicién (Comisión Nacional de los Mercados y la Competencia)

Andreas Mundt (Bundeskartellamt)

Martijn Snoep (Autoriteit Consument & Markt)

FURTHER INQUIRIES

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