



Funded by the Training of National Judges Programme of the European Commission

SEMINAR ON EUROPEAN COMPETITION LAW FOR NATIONAL JUDGES National Judges and Antitrust Challenges in the Digital Age”



Budapest, Hungary



16-17 November 2018

Seminar objectives

Dynamic markets in the digital sectors are challenging the traditional approach adopted by competition authorities to antitrust issues (see, in that regard, the OECD-GVH RCC Newsletter, Issue No. 11, July 2018, pp. 12-31). National judges now have to review these authorities’ decisions applying new concepts and theories.

The seminar aims to make national judges who deal with competition law cases aware of how new technologies may impact on their traditionally employed reasoning by (i) providing them with the relevant case law in that regard; (ii) discussing the pertinence of new arguments put forward by both claimants and defendants and, (iii) promoting active participation through group exercises.

The seminar will cover a number of selected issues raised by new technologies’ impact in the field of competition law such as the notion of two or multi-sided markets for online platform businesses, discriminatory behaviours of dominant companies in fast-evolving markets, patent protection in technology industry, the role of innovation in the context of mergers occurring in digital sectors and vertical restraints in online distribution.

The training will be based on hypothetical case exercises addressing these issues, which will be tackled, first, in small groups (accompanied by one of the experts). One or more experts will then give an in-depth presentation of the legal and/or economics aspects that should be kept in mind, illustrated by key EU and national cases. Finally, the methods to follow to deal with the issues raised in the exercise and discussed by the experts in their presentations will be explained by the judicial expert.

SPEAKERS

| PRIVATE LEVEL |

- MR THOMAS VINJE, *Partner*, Clifford Chance, Brussels
- MR MIGUEL DE LA MANO, *Executive Vice President*, Compass Lexecon, Brussels

| PUBLIC LEVEL |

- MS CRISTINA CAMACHO, *Head of President's Cabinet*, Autoridade da Concorrência, Lisbon
- MR ANDRÁS TÓTH, *Vice-President*, President of the Competition Council, GVH, Budapest
- MR VIVIEN TERRIEN, *Référendaire*, General Court of the European Union, Luxembourg

| INTERGOVERNMENTAL LEVEL |

- MS SABINE ZIGELSKI, *Senior Competition Expert*, OECD, Paris
- MR PEDRO CARO DE SOUSA, *Competition Expert*, OECD, Paris

Agenda

Friday, 16 November 2018

09.15-09.30	WELCOME AND OPENING REMARKS BY VIVIEN TERRIEN (CJEU)
09.30-10.00	GROUP PHOTO AND INTRODUCTION
10.00-10.50	INTRODUCTION (1/2): DYNAMIC MARKETS & COMPETITION LAW – NEW CHALLENGES? <ul style="list-style-type: none">• THE CHALLENGES RAISED BY DYNAMIC MARKETS FOR THE NCA <i>Cristina Camacho (Autoridade de Concorrência, Lisbon)</i>• DYNAMIC MARKETS AND DYNAMIC ENFORCEMENT <i>András Tóth (GVH, Budapest)</i>• DIGITAL ECONOMY, INNOVATION AND COMPETITION <i>Pedro Caro de Sousa (OECD, Paris)</i>• DISRUPTIVE INNOVATIONS <i>Sabine Zigelski (OECD, Paris)</i>• THE CHALLENGES RAISED BY DYNAMIC MARKETS FOR THE EU JUDGE <i>Vivien Terrien (General Court of the EU, Luxembourg)</i>
10.50-11.05	COFFEE BREAK
THEME #1	DYNAMIC MARKETS & MARKET POWER
11.05-12.00	HYPOTHETICAL CASE EXERCISE #1 – WORKING GROUPS
12.00-12.10	REPORTS FROM THE GROUPS' REPRESENTATIVES
12.10-12.20	WRAP-UP HYPO BY MR MIGUEL DE LA MANO <i>(Compass Lexecon, Brussels)</i>
12.20-12.30	Q&A and Experience Sharing Session

INTRODUCTION (2/2): DYNAMIC MARKETS & COMPETITION LAW – NEW CHALLENGES?

12.30-12.40 THE CHALLENGES RAISED BY DYNAMIC MARKETS FOR THE ECONOMIST

Miguel de la Mano (Compass Lexecon, Brussels)

12.40-12.50 THE CHALLENGES RAISED BY DYNAMIC MARKETS FOR THE LAWYER

Thomas Vinje (Clifford Chance, Brussels)

12.50-14.20 LUNCH

THEME #2 DYNAMIC MARKETS & ABUSE OF DOMINANT POSITION

ISSUE #2.1 – REBATES & PREDATORY PRACTICES

14.20-14.55 INTERACTIVE CASE STUDY –

Miguel De La Mano (Compass Lexecon, Brussels)

14.55-15.10 “THE MEO CASE AND PRICE DISCRIMINATION”

Cristina Camacho (Autoridade da Concorrência, Lisbon)

15.10-15.20 “ANTICOMPETITIVE PRICING PRACTICES AND THE DIGITAL ECONOMY”

Pedro Caro de Sousa (OECD, Paris)

15.20-15.30 COMMENTS

Thomas Vinje (Clifford Chance, Brussels)

15.30-15.45 Q&A and Experience Sharing Session

15.45-16.00 COFFEE BREAK

ISSUE #2.2 – INTELLECTUAL PROPERTY ISSUES

16.00-16.50 HYPOTHETICAL CASE EXERCISE #2 – WORKING GROUPS

16.50-17.00 REPORTS FROM THE GROUPS’ REPRESENTATIVES

17.00-17.10 WRAP-UP HYPO

Pedro Caro de Sousa (OECD, Paris)

17.10-17.20 “IP AND COMPETITION”

Pedro Caro de Sousa (OECD, Paris)

17.20-17.30 “SEP AND FRAND ISSUES”

Miguel de la Mano (Compass Lexecon, Brussels)

17.30-17.40 COMMENTS

Thomas Vinje (Clifford Chance, Brussels)

17.40-17.50 Q&A and Experience Sharing Session

18.30 WELCOME DINNER (MEETING AT THE HOTEL RECEPTION)

Saturday, 17 November 2018

09.15-09.30	PRESENTATION OF THE SECOND DAY <i>Vivien Terrien (CJEU)</i>
THEME #3	– DYNAMIC MARKETS & MERGER ISSUES
9.30-10.30	HYPOTHETICAL CASE EXERCISE #3 – WORKING GROUPS
10.30-10.45	REPORTS FROM THE GROUPS’ REPRESENTATIVES
10.45-10.55	WRAP-UP HYPO <i>Miguel De La Mano (Compass Lexecon, Brussels)</i>
10.55-11.05	“LESSONS FROM THE RECENT DISNEY/FOX MERGER” <i>Miguel de la Mano (Compass Lexecon, Brussels)</i>
11.05-11.25	“NON-PRICE EFFECTS OF MERGERS (QUALITY, VARIETY, AND INNOVATION)” <i>Sabine Zigelski (OECD, Paris)</i>
11.25-11.35	“LESSONS FROM THE RECENT THE AT&T/TIME WARNER MERGER” <i>Pedro Caro de Sousa (OECD, Paris)</i>
11.35-11.45	COMMENTS <i>Thomas Vinje (Clifford Chance, Brussels)</i>
11.45-12.00	Q&A and Experience Sharing Session
12.00-12.15	COFFEE BREAK
THEME #4	DYNAMIC MARKETS & VERTICAL RESTRAINTS
12.15-13.00	MOCK TRIAL SIMULATION – WORKING GROUPS
13.00-14.30	LUNCH
14.30-14.45	WRAP-UP HYPO <i>Sabine Zigelski (OECD, Paris)</i>
14.45-15.05	“ONLINE SALES AND VERTICAL RESTRAINTS” <i>Sabine Zigelski (OECD, Paris)</i>
15.05-15.15	COMMENTS <i>Thomas Vinje(Clifford Chance, Brussels)</i>
15.15-15.35	“RPM & THE DG COMP’S CONSUMER ELECTRONICS MANUFACTURERS DECISIONS” <i>Cristina Camacho (Autoridade da Concorrência, Lisbon)</i>
15.35-15.55	EFFICIENCIES RESULTING FROM VERTICAL AGREEMENTS” <i>Cristina Camacho (Autoridade da Concorrência, Lisbon)</i>
15.55-16.05	Q&A and Experience Sharing Session
16.05-16.20	WRAP UP SESSION AND CLOSING REMARKS
16.20	End of the seminar