

Editorial

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General Editor

The editorial board is pleased to publish the second issue of the *Market and Competition Law Review* (M&CLR) devoted to three significant EU topics: digital markets, criminalisation of cartels and EU law restitution.

The first article, written by Valeria Falce and Massimiliano Granieri, departs from the European Google Shopping Case and discusses extensively whether traditional competition law and remedies are flexible enough to deal with new digital technologies or if those tools applied mainly to static situations should be replaced. The Authors suggest that the present antitrust legal framework cannot deal adequately with search markets and that a more economically oriented approach is needed.

The second article, by Margherita Colangelo and Mariateresa Maggiolino, also discusses whether regulations should be modified in order to address effectively the new services of the digital economy, as in the Uber case. After analysing this new business model, and the antitrust concerns, the Authors infer that certain specific legislative rules should be introduced.

The third article, authored by Antonio Robles Martin-Laborda, provides a very relevant and critical analysis of the EC Commission decisions, reflecting on merger control and online platforms and more precisely on the impact of network effects on the assessment of mergers in two sided markets.

The two final articles discuss EU law restitution and criminalisation of cartels.

Nuno Castro Marques revisits the theme “criminalisation of cartels” and suggests a different path to this relevant issue. The Author points out that the discussion is still open and that the application of common instruments of criminology and the analysis of the legal interests protected by

the norm can shed new light to this topic. In other words, the harm caused by cartels and bid rigging is superior to the one caused by other competition infringements; therefore, the merits of applying the same sanctions framework to all the competition infringements should be reassessed.

Magnus Strand, on the other hand, reflects on EU Law restitution as an alternative to damages in private enforcement of EU law. The Author breaks new ground and focuses on the criteria identified in the EU case law of restitution as a remedy for the infringement of EU law by a Member State, calling the attention of the Court to the need of clarification of its case law.

The second section of the Review concerns legislation review and case comments and contains two contributions. Maria João Melícias discusses the State Aid prohibition established in the Portuguese Competition Act, taking into account the relevance that State aid control has gained after the European economic and financial crisis. The Author stresses that the new rhetoric followed by the European Commission in that context, calling into the equation the importance of “fair competition”, might be more attractive for business and consumers.

Rita Leandro Vasconcelos, on the other hand, comments the judgment of September 15th, 2016, *Morningstar Inc v. European Commission*, concerning a Commission decision rendering binding commitments offered under Article 9 of Regulation 1/2003 and explains that this important enforcement tool still raises many difficulties that continue to be discussed.

In the third section, Ana Teresa Ribeiro reviews the book of Stephen Weatherill, “The internal market as a legal concept”, which not only discusses in a clear and comprehensive way this ambiguous legal concept, but also provides meaningful insights into the vertical (EU/Member States) and horizontal (Court/Legislative Institutions of the EU) distribution of powers.

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