

Contact: Johannes Kleis: +32 (0)2 789 24 01
Date: 02/10/2019
Reference: BEUC-PR-2019-025

A European competition policy that serves consumers in the digital era

“Consumers must obtain a fair share of the considerable benefits of the digitisation of the economy”, said BEUC Director General Monique Goyens at the opening of BEUC’s 2 October conference on “Protecting Consumers’ Freedoms in the Digital Era”. “We therefore call on the incoming European Commission to take decisive action, building on the progress made in the last five years, to boost competition law enforcement and, where appropriate, propose ex ante regulation”.

“We must avoid a situation where powerful companies can prevent newcomers from entering the market. We clearly need free and fair competitive markets where companies compete on merit and consumers can choose between a variety of suppliers to get the best deals in terms of quality and value for money.”

“The notion that market forces alone can ensure best outcomes for consumers is a concept promoted by the corporate lobbying of vested interests that want to avoid enforcement or regulatory action that could threaten their strong position on the market. Competition law is an important tool to boost consumer choice and satisfaction. But the digitisation of markets requires competition agencies, and at times the law, to adapt. Failure to do so may harm consumers and allow long-term distortions of competition to persist. This can happen, for example, if enforcement actions come too late to prevent markets being totally dominated by a powerful company.”

“The European Commission and EU Member States’ competition authorities must therefore keep pace with the new challenges of the digital age in terms of their enforcement priorities, enforcement capacities and assessment of harm to consumers. They must have the tools and resources to address these new and evolving challenges, including big data, big analytics and network effects. The inability, and the cost, of switching to alternative suppliers are also serious problems that must be tackled.”

A [report](#) just published by BEUC for the conference on “The Role of Competition Policy in Protecting Consumers’ Well-being in the Digital Era” makes several proposals to optimise the enforcement of EU competition law in the digital economy. These proposals include:

- using enforcement to tackle serious competition problems that harm consumers before it’s too late
- fact-based enforcement based on pro-active use of information gathering tools and sector inquiries to better understand how market are developing and to identify competition infringements
- shifting the burden of proof on to merging companies in digital markets so that they have to prove that deals would not distort competition
- giving more attention to behavioural economics when assessing whether operators can block market entry, restrict consumer choice and information flows and

manipulate users' behaviour. The Commission should in particular look at how consumers behave in real life when assessing the compliance of a remedy (e.g. does the 'choice screen' suggested by Google in the Android case really lead to more consumer choice)

- providing guidance for businesses outlining competition concerns raised by certain practices and how to ensure they act within the limits of the law
- avoiding under or late enforcement by proactively using the competition toolbox (e.g. interim measures) in case where there is a clear harm to competition and consumers
- breaking down enforcement silos by encouraging coherent and efficient cooperation between authorities dealing with competition, data and consumer protection and regulated markets, such as financial services, telecoms, transport or energy.

The BEUC report also notes that in some cases regulation can be an effective complement to competition enforcement to deal with systemic market failures, sector specific problems and protecting vulnerable groups of consumers. Examples where regulation may be appropriate include data harvesting, the right to privacy, the behaviour of powerful platforms and enforcement of consumer protection rules.

ENDS

If you would like to be removed from our mailing list, please let us know.

