DOI: 10.24193/OJMNE.2022.40.05

PECULIARITIES OF ABUSE CONTROL IN THE PLATFORM ECONOMY

Rastislav FUNTA, Ph.D.
Danubius University, Slovakia
rastislav.funta@vsdanubius.sk

Marian HORVÁTH, Ph.D.
Danubius University, Slovakia
marian.horvath@vsdanubius.sk

Abstract: *In some markets, there has been a spike in digitization. There may be changes in the market structure as a result of this, as well as an increase in the market strength of some huge digital enterprises. In light of this, the role of abuse control in digital markets is projected to grow in importance in the coming years. At the national and union levels, efforts are now being made to tighten abuse control on internet platforms. This thesis examines a number of topics relating to internet platform competition and market power, such as the criteria for determining market power of digital platforms and the method to follow in circumstances where the market tends to "tip" permanently in favor of a platform. Another question is whether the principles of Art. 102 TFEU appear sufficient in terms of market power in digital platforms. Central to this is the consideration that a special platform regulation, where dominant platform companies will be subject to additional obligations and stricter monitoring beyond Art. 102 TFEU could be a useful addition to the existing merger regulation.*

Keywords: Abuse control, case law, digitization, digital companies, eu regulation, merger regulation.

Introduction

The present thesis investigates digitization, which has accelerated in all aspects of our lives. This also means that economic transactions can be processed much more quickly. (Furman, 2019). With its rapid technological advancements, the digital age presents new challenges for competition policy. In dynamically developing markets, effective merger control and protection against abuse of market power must be ensured. Such position can emerge and spread beyond

traditional borders, particularly in connection with platform-based business models. Because of the potential for rapid adjustment of digital offers, the associated competition issues pose unique challenges for European abuse control. Large companies that abuse digital marketplaces, particularly online platform companies, must face harsher penalties. It is a common approach of various areas of European law, since penalties are applicable not only in criminal law area (Klimek, 2020a; Klimek, 2020b). As a result, competition law procedures must be simplified, and if necessary, supporting regulatory instruments must be developed. The implementation of these requirements necessitates an understanding of the peculiarities of digital platforms' market power, as well as the platform economy's information problems (Peráček, 2020). This could contribute to the debate over how to more effectively punish large companies on digital markets (online platform companies), and if necessary, accompanying regulatory instruments will be developed. Understanding the unique characteristics of the digital platforms as well as the information issues that exist in the platform economy is necessary for the realization of these objectives.

Objective and methodology

The primary goal of this article is to thoroughly examine various existing regulatory concepts and to clarify their limitations in light of the challenges associated with platform economy abuse control. We set this objective based on the needs and emerging problems from practice. The sub-objectives of the paper are focused on:

- evaluating the state and development of the special features of the market power of platforms and information problems in the platform economy and
- proposing approaches to market power-related and information-related problems.

Our research goal is to analyze how competition law procedures should be facilitated for this purpose and, if necessary, what regulatory instruments should be developed to protect platform users. Through in-depth document analysis, the data was gathered from scientific literature as well as related case law. Several scientific methods of research have been used in the exploration and development of our paper. We applied the analysis method to investigate the state of abuse control in the platform economy. The synthesis will allow us to combine partial information into a single unit. We reviewed the economic-legal and regulatory situation, as well

as abstractions, using critical analysis. We apply the comparative method in order to analyze the views of economists and lawyers from both sides of the Atlantic on abuse control in the platform economy. We were able to reach reliable and valid conclusions and results based to the methods we used.

Platform characteristics and information issues in the platform economy

The uniqueness of the business models used by online platform companies (Nyman-Metcalf, Dutt, Chochia, 2014) is that they target a variety of distinct user groups who communicate with one another on the platform. Platforms act as intermediaries between user groups, but not necessarily between "relevant" markets (Stehlík, Hamuľák, Petr, 2017). Platforms, e.g. social networks, mediate among users (one-sided). But they can also stand between different user groups which either offer or search online content, as in the case of search or trading platforms (multi-sided, Šmejkal, 2016). In both cases, the platform's offer to users is to enable them to exchange information directly with one another. The possibility for users to exchange information directly means that users may concentrate on a specific platform (Šramel, Horváth, 2021). The fact that the platform has a large number of users in one market can make it more appealing to other users, either from the same user group (direct network effect) or from a different group (indirect network effect). However, other factors, such as the platform's ability to benefit from economies of scale, the ability for users to use them in parallel and their switching effort, the platform's differentiation capabilities, and user heterogeneity, all influence the extent to which such network effects can promote concentration. A large portion of the economy relies on the provision of digital platform services. In time of rapid innovation, online platforms have a significant impact on changes in living standards. In the digital economy, digital platforms are uniquely positioned. While being offered for free, platform services supported by digital advertising offer significant benefits to users. A variety of internet services command high cash values from consumers. It is critical that competition in these areas is strong since these services are so crucial to consumers. Important to mention is that consumer welfare from digital goods is significant and is not included in GDP. Consumer surplus is a strong indicator of consumer well-being. This is essential in the digital economy, where many digital goods are free.

Online platform companies, in particular those with a data-driven business model, gain market power not only through potentially strong (direct and indirect) network effects, but also through the competitive relevance of the data aggregated on the platform (Haucap, 2018). This is true at least if the platform has the ability to use the data to the exclusion of other market participants (Daňko, Žárská, 2019). The larger a platform's database, the better it can adapt its service to user needs. The more relevant data a platform has in comparison to its competitors, the more difficult it is for others to compete. As a result, the size of a platform's database has both positive and negative effects for its users due to less competition. The competition problems caused by large online platforms can be of a structural nature and manifest themselves in two ways, the market position of the platform can no longer be contested in the long term (tipping) and platforms can transfer their market power to other markets (Ďuriš, Funta, 2021) in order to create more or less invulnerable ecosystems (Funta, 2020). Platform-based ecosystems, on the other hand, are ambiguous. The term "ecosystem" refers to cross-market structures in which data from various markets is combined on the (technical) platforms of one or, if necessary, several companies, and users are offered complementary services as a result. On the one hand, platform users gain access to a large number of products, as well as the fact that the ecosystem is appealing to other users. On the other hand, an ecosystem like this can significantly reduce competition from outside sources. It is more difficult for competitors to find customers for alternative offers if the consumers are already tied to the ecosystem of a dominant provider.

The fact that large online platforms serve as intermediaries and provide a central infrastructure for their users has the structural effect of influencing the market. In the report “a competition policy for the digital age”, it is therefore emphasized that platforms can act as rule-setters (Crémer, de Montjoye, Schweitzer, 2019; Horváth, 2021). This could justify the proposal that dominant platforms need to be put under stricter behavioral requirements than other dominant companies. According to European case law, such companies per se have a “special responsibility” for not further damaging the market structure through their behavior (C-322/81, NV Nederlandsche Banden Industrie Michelin v Commission of the European Communities). The availability of information is another feature of the platform economy (Rutgers, Sauter, 2021). Due to their potentially exclusive access to data (Králik, Králiková, Kozák, 2021), online platform companies, particularly those with a data-based business model, can have information advantages, both to their users and to the authorities. The authorities have extensive powers to

gather information in administrative proceedings (Kubincová, S. et al. (2019). Nonetheless, understanding the purposes for which a dominant platform company uses data can be difficult. Digital market conditions can change quickly, and market participants must constantly adapt their behavior to changing circumstances (Kaplow, 2010). However, there is an information gap not only between the platform company and outsiders, but it can also develop between the platform users on the retailer side and on the consumer side, especially in the case of online marketplaces. Particularly with a view to the algorithmic pricing of many online retailers, it is suspected that this may be at the expense of consumers (Šmejkal, 2014), either due to price discrimination or due to consumer-damaging coordination of prices (collusion).

Approaches to market power-related problems

Several of the problems described above address the prerequisites for establishing market dominance on platform markets, as well as abusive behavior that permanently shakes markets or creates unassailable ecosystems. However, by implementing existing Articles 101 and 102 TFEU, the problems can be addressed at least partially at the Union level (Svoboda, Munková, Kindl, 2012). Where these provisions do not fully address the problems described, further development of the European legal framework is required.

Determining the market power of digital platforms

The described peculiarities in determining online platform companies' market power should not necessitate any changes to Article 102 TFEU (abuse prohibition) or European merger control at the Union level. The concept of "intermediation power" is being debated in order to simplify the determination of market power in the case of online platforms. This concept, however, can be reconciled with the European Court of Justice's definition of a dominant position without changing the existing regulations. The concept of intermediation power is thus critical. The concept of intermediation power is linked with the observations, that the more digital platforms (Funta, 2019) bundle the demand for goods or services, the more providers of goods or services can rely on the intermediation services of these platforms for access to the opposite side of the market. Furthermore, because of information asymmetries, intermediation platforms frequently have room for maneuver that is not controlled by competition. Increasing importance

of such intermediaries corresponds to the increasing dependency of the providers. Platform service providers face the risk of becoming economically dependent on intermediation platforms. This situation has the potential to deteriorate into one of abuse of dominance, resulting in unfair competition and impeding the entry of new entrants into the market. The European Court of Justice developed the following definition of "dominant market position" for the prohibition of the abuse (Mulaj, 2022) of market power in Article 102 TFEU: The dominant position referred to in this article relates to a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers (C-27/76, United Brands Company and United Brands Continentaal BV v Commission of the European Communities). A significant impediment to effective competition generally results from the creation or strengthening of a dominant position. With a view to preserving the guidance that may be drawn from past judgments of the European courts and Commission decisions pursuant to Regulation (EEC) No 4064/89, while at the same time maintaining consistency with the standards of competitive harm which have been applied by the Commission and the Community courts regarding the compatibility of a concentration with the common market, this Regulation should accordingly establish the principle that a concentration with a Community dimension which would significantly impede effective competition, in the common market or in a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position, is to be declared incompatible with the common market (Council Regulation (EC) No 139/2004). This definition does not necessitate the delimitation of markets in which the dominant company has leeway and can thus act independently of other market participants. It only remains to identify the markets where competition is hampered. Platforms that serve as a barrier between user groups are thus rendered obsolete. The only thing that matters is how their actions affect relevant markets with direct user contact, as well as third-party markets. In this context, any platform-based dependencies that prevent users from switching to alternative offers can be considered.

Tipping of markets

Article 101 TFEU may cover certain types of behavior (Osztovits, 2012), such as exclusivity agreements or most-favored-nation clauses (MFN clauses). However, competition

protection is only applicable in the case of unilateral behavior if the platform company already has a dominant position under Article 102 TFEU. A "tipping" of markets can be based on the success of companies in competition and in these cases is not objectionable in terms of competition policy. This is a statement that is both correct and important, because history has shown that competition, particularly in the digital economy, is frequently conducted not only on the market, but also around the market. So, for example, Facebook has not always been the leading social network, but despite network effects working against it at the time, it has gained its position (Medzini, 2022) with the (apparent) monopoly MySpace, and is now being challenged by new competitors such as Snapchat and TikTok, which have managed to build up a very large user base in a short period of time. A monopoly that emerges in a tipped market, on the other hand, is difficult to reverse. Thus, it makes sense under antitrust law to focus on anti-competitive practices that may promote tipping rather than tipping itself. As a result, before considering market dominance, authorities should be empowered to prevent problematic one-sided behavior that can lead to market tipping (Miskolczi-Bodnár, 2015). So far, European competition law has not recognized any prohibition of monopoly. In contrast, Section 2 of U.S. Sherman Act (15 U.S.C. § 2) contains such a prohibition. This rule applies when a company inappropriately hinders competition by creating or maintaining monopoly power. Most of the cases relate to the conduct of a company (Szegedi, 2014) that has already achieved a leading position in the market, although the regulation also prohibits monopoly attempts and monopoly conspiracies (Posner, 2019). The main distinction between Section 2 of the US Sherman Act and Article 102 TFEU is that the US monopoly prohibition is limited to a certain level of intervention, such as the existence of a dominant position (Jones, Sufrin, 2016). This allows the intervention to be handled more flexibly, allowing the antitrust authorities to intervene earlier. In theory, this adaptability can be applied to any behavior in which companies take advantage of their size. In practice, the Sherman Act imposes strict requirements on courts to provide evidence that monopoly is occurring, or is threatening to occur. A similar standard as in the prohibition of monopoly of § 2 of the U.S. Sherman Act can be found in the so-called SIEC test of merger control. According to this, merger control serves to prevent certain agreements with structural effects (merger agreements) "which would significantly impede effective competition, in the common market or in a substantial part of it, in particular as a result of the creation or

strengthening of a dominant position, shall be declared incompatible with the common market" (Article 2 (3) EC Merger Regulation).

Prohibition of abuse under Article 102 TFEU

European case law and competition authority practice take a different conceptual approach when applying Article 102 TFEU. The European jurisprudence does not call the market position into question, but rather examines whether the investigated behavior results in market power leverage. According to case law, abuse can also be established in this case if the investigated behavior only affects markets other than the dominated ones. According to the European Court of Justice, such leverage of market power is at least possible when there are "special circumstances", for example, when the company in question has a quasi-monopoly on a market (C-333/94 P, Tetra Pak International SA v Commission of the European Communities). Following this case law, the court ruled that companies in platform markets may experience abuse, in which the abusive behavior has an impact across all markets (T-201/04, Microsoft Corp. v Commission of the European Communities). The European Commission took action against the search engine operator Google because of preferential treatment of its own price comparison service linked to the search service, so-called self-favoring (Google Search Shopping). In this case, the market for general search services was already tipped in favor of Google to an extent that was difficult to enter for others (T-612/17, Google and Alphabet v Commission (Google Shopping)). In another proceeding, the European Commission took action against tying agreements that Google had imposed on the manufacturers of Android devices (based on its dominant position in the market for Android app stores) in order to strengthen its dominant position in the market for general Internet search services and gain competitive advantage in the mobile internet browser market (Google Android). If a company with a strategic market position did not adequately inform other companies about the scope, quality, or success of the provided service, or otherwise made it excessively difficult to exercise the value of this service, this could be seen as problematic. It should be also noted, however, that companies can take advantage of the information advantages (Karácsony, 2019). In order to apply Article 102 TFEU in the above-mentioned cases, additional effects on competition that promote market power would have to be proven (Miskolczi-Bodnár, Szuchy, 2017).

Platforms as central infrastructures

The issue of large platforms' market position can be examined from various perspectives. One approach could be to require dominant platform companies to demonstrate that they are not abusing their position (Klimek, 2013) as defined by Article 102 TFEU. Another approach would be to impose additional obligations and stricter monitoring on dominant online platform companies on an individual basis.

Platform regulation as a sensible regulatory supplement?

It is the responsibility of dominant online platform companies to ensure that the rules they choose do not obstruct free and undistorted competition without objective justification (Bostoen, Mândrescu, 2020). A dominant online platform that establishes a marketplace must also ensure that the marketplace operates on a level playing field and must not use its regulatory power to influence the outcome of the competition. Preventive regulations (Škrabka, (2020) that subject dominant online platform companies to additional requirements in the event of a structurally impaired market structure could be based on Article 103 and Article 352 TFEU. In this respect, there is a parallel to the preventive regulations of merger control (Šmejkal, 2020). Such an anti-competitive platform regulation could supplement the platform-related regulations that the EU has already enacted to protect the internal market, which aim to increase transparency and fairness for businesses, among other things. Technical interoperability and the resulting open architecture of the Internet are required for unrestricted information use (Gregušová, Dulak, Chlipala, Susko, 2005). Data portability is also important in terms of competition, as it helps to reduce lock-in effects that are harmful to platform users. Article 20 of the GDPR already establishes requirements for data portability in the existing legal framework. The enforceability of such a user right can in practice be impaired by the fact that the systems between which the data is to be transferred are technically not sufficiently coordinated with one another (Andraško, Horvat, Mesarčík, 2019). As a result, it appears that, before imposing increased interoperability and portability responsibilities on leading online platform companies, it is necessary to first

determine whether existing standards have been proven in practice and which deficiencies remain (Klouda, 2020).

Approaches to information-related problems

Transparency issues in the platform industry may be highlighted as a distinguishing feature (Khan, 2019). There is a risk of algorithmic collusion in online marketplace relationships between retailers and customers.

Information gaps between platforms and authorities

A competitive problem may exist under Article 102 TFEU if a dominant online platform suggests answering search queries solely on the basis of user preferences, despite the fact that the displayed results are influenced by providing commissions (Plavčan, Funta, 2020). The considerations which can be found in the documents of the European Commission on the legislative package concerning digital services relating to targeted information collections of major platform companies (gatekeepers) appear with regard to the enforcement of Regulation 2019/1150 as reasonable. A platform service should be seen as a gatekeeper if it has a significant impact on the internal market, operates a core platform service which serves as an important gateway for business users to reach end users and enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future 2020/0374(COD). In any case, Article 102 TFEU assigns the burden of proof in cases of the exploitation abuse to the relevant authority (Schweitzer, Haucap, Kerber, Welker, 2018). This bears the risk of ambiguity in the legal assessment even if facts are to be determined from the affected company. According to the case-law of the European Court of Justice, especially in cases of exploitation abuse (Whish, Bailey, 2018), it is not excluded that in favor of the antitrust authorities in a judicial review considerable and sometimes huge difficulties are to be taken into account (C-27/76, United Brands Company and United Brands Continentaal BV v Commission of the European Communities). As a result of the information imbalances in this area, it may be unclear to authorities which information can deliver the company to a request for information and whether the information provided is complete (Wen, Feng, 2018).

The European case-law has based on the Union's fundamental rights (Svák, 2000) and the European Convention on Human Rights (Pirošíková, Siman, 2012; Sitek, Roman, 2016;

Sitek, 2017) worked out the supplemental procedural principle to take evidence for cost and pricing that the regulatory obligation (Kecskés, Karácsony, Glavanits, 2021) is limited in terms of burdening facts. The company concerned may therefore deny the disclosure of the facts in question. The company is therefore likely to be obliged to take evidence for cost and pricing and in the case of data-based business models to disclose the collected data (C-407/04 P, Dalmine SpA v Commission of the European Communities). On the other hand, the company, in its own interest, is obliged to provide reasons of justification. The dominant company has to show that the efficiency gains counteract any likely negative effects on competition and consumer welfare in the affected markets (Shao, 2021). Furthermore, those gains have been, or are likely to be, the result of that conduct, that such conduct is required for the achievement of those efficiency gains, and that the procedure does not eliminate effective competition by removing all or most existing sources of actual or potential competition (C-209/10, Post Danmark A/S v Konkurrencerådet). There is no obligation in the sense that a company must support the investigation, otherwise. Although the European Court of Justice decided that coercion or compulsion can be inadmissible to obtain such information (C-411/15 P, Timab Industries and Cie financière et de participations Roullier (CFPR) v European Commission), this applies if protected rights are actually impaired.

Information gaps to the detriment of consumers in online marketplaces

There has been a lot of discussion in recent years about whether algorithms can contribute to competition problems (Yara, Brazheyev, Golovko, Bashkatova, 2021). The debate primarily revolves around two topics: algorithmic collusion and the use of algorithms for price discrimination. A question that was rarely addressed was whether there is a link between the role of online platform companies and the potential risk of competition issues associated with the use of algorithms. In this regard, we can argue in favor of requiring a dominant online platform that establishes a marketplace to ensure a level playing field on that marketplace and refrain from using its market-regulating power. Otherwise, there is a chance that online platform companies would actively interfere with and distort the competition on the platform. Another question is whether online platforms (especially online marketplaces) can influence market structure in ways that increase the likelihood of algorithmic collusion or price discrimination. Furthermore, in terms of network effects, increasing concentration increases market transparency. Retailers on the internet marketplace are likely to benefit more than consumers from this increased market

transparency. This is due to the fact that retailers have more money to invest in their algorithms. Furthermore, retailers can use the data at their disposal to address customers in a more context-specific and personalized manner (Fedushko, Mastykash, Syerov, Peráček 2020). Retailers, on the other hand, can learn which groups of customers are less likely than others to switch to more appealing offers by addressing them in this manner. If customers do not switch to competitors quickly enough, price differentiation can be used to persuade them to pay more than they would if only unit prices were used. If retailers can differentiate between customer groups based on price, it may indicate that the market is becoming increasingly fragmented, necessitating the definition of narrower relevant sub-markets (Lopatka, 2011). In such narrowly defined markets, structural conditions for price-related coordination may be more favorable than in larger and less fragmented markets. This is due to the increased likelihood that reaching an agreement, monitoring compliance with coordination modalities, and sanctioning deviations from coordinated prices via retaliatory measures will be relatively simple (e.g. short-term predatory prices). The coordination's long-term success (Signoret, 2020) would then be determined by whether outsiders' reactions, such as current and future competitors who do not participate in the coordination, as well as customers, jeopardize the expected outcomes (Guidelines on the assessment of horizontal mergers). It will be difficult for outsiders to disrupt the coordination if online marketplace retailers are able to differentiate prices between customer groups over a longer period of time.

Conclusions

More and more data is being used since the cost of gathering, storing, processing, and analyzing data has substantially decreased. These two developments, namely the growing importance of platforms on the one hand and the role of data as a critical resource on the other, are the primary drivers of structural change in the digital economy. There is an economic justification for the fact that stricter and more effective abuse control, which effectively addresses anti-competitive behavior by companies, reduces the importance of concurrent merger control expansion. But, extending merger control is currently difficult because, while it would make it easier to address the problem of so-called killer acquisitions, it may exacerbate other issues that are equally important. However, the idea that a special platform regulation, which subjects dominant online platform companies to additional obligations and stricter monitoring

beyond Article 102 TFEU, can be viewed as a useful addition to the current merger control regulation should be emphasized. The EC Merger Regulation acts as a deterrent to mergers that may have a negative impact on market structure in the long run. Platform regulation in tipping platform markets could help to avoid the risk that powerful online platform corporations stifle competition and continue to harm consumers. Furthermore, the platform regulation could be used to account for dealers' informational advantages over consumers on online marketplaces. This is significant in light of the increased risk of implicit coordination and, as a result, excessive consumer prices on online marketplaces. This risk could be countered by expanding the presumption of damage in Article 17 Directive 2014/104/EU. In the connection between retailers and consumers on online marketplaces, a more precise specification of the assessment criteria for automated pricing of online merchants using price algorithms appears to be desirable. Insofar as price differentials on online marketplaces suggest that relevant markets are fragmenting, it is important to consider how the term "relevant market" is defined in EU competition law. To adequately protect consumers from harm caused by automatically established and excessively high prices, it may be suggested that a statutory presumption of damage be created. Forbidding violations of the law prevents future harm that could undermine long-term business alliances in the internet platform economy. To address the information gap between platform companies and investigating authorities, procedural obligations to cooperate should be tightened. Furthermore, the legal presumption of damage seems desirable in order to effectively protect consumers from damage caused by automatically set and unreasonably excessive prices under Article 102 TFEU. Furthermore, the criteria for market definition on online marketplaces should be revised if price differentiation by retailers indicates that relevant markets are fragmenting.

References

1. Andraško, J. – Horvat, M. – Mesarčík, M. (2019). *Vybrané kapitoly práva informačných technológií II [Selected Chapters of Information Technology Law II]*. Bratislava: Comenius University.
2. Bostoen, F. – Mândrescu, D. (2020). Assessing abuse of dominance in the platform economy: a case study of app stores, *European Competition Journal*, 16:2-3, 431-491, doi: 10.1080/17441056.2020.1805698.
3. Crémer, J. - de Montjoye, Y-A. – Schweitzer, H. (2019). *Competition Policy for the Digital Era*. Brussels: Directorate-General for Competition.
4. Daňko, M. – Žárská, P. (2019). Data protection vs. Intellectual property. *Počítačové právo, UI, ochrana údajov a najväčšie technologické trendy*, Brno: MSD.
5. Ďuriš, M. – Funta, R. (2021): The effects of cross-border transfer of a company's registered office in the EU as part of the freedom of establishment. *EU Law Journal*, 7 (1): 6-10.
6. Fedushko, S. – Mastykash, O. - Syerov Y. - Peráček T. (2020). Model of user data analysis complex for the management of diverse web projects during crises. *Applied Sciences*, (24).
7. Funta, R. (2020). Social Networks and Potential Competition Issues. *Warszawa: Krytyka Prawa. Niezależne Studia Nad Prawem*, (12): 193-205, doi: 10.7206/kp.2080-1084.369.
8. Funta, R. (2019). Economic and Legal Features of Digital Markets. D*anube*, (2): 173-183, doi: 10.2478/danb-2019-0009.
9. Furman, J. (2019). *Unlocking digital competition*. Report of the Digital Competition Expert Panel. London: HM Treasury.
10. Gregušová, D. - Dulak, A. - Chlipala, M. - Susko, B. (2005). *Právo informačných a komunikačných technológií [Information and communication technology law]*. Bratislava: VO STU.
11. Haucap, J. (2018). Daten als Wettbewerbsfaktor. *Wirtschaftsdienst* 98: 472-477.
12. Horváth, M. (2021). *Digitálna éra ako výzva pre občianske a pracovné právo v kontexte personálneho manažmentu [The digital age as a challenge for civil and labor law in the context of personnel management]*. Týn nad Vltavou: Nová Forma.

13. Jones, A. - Sufrin, B. (2016). *EU Competition Law: Text, Cases and Materials*. Oxford: Oxford University Press.
14. Kaplow, L. (2010). Why (Ever) Define Markets?. *Harvard Law Review*, No. 2: 437-517.
15. Karácsony, G. (2019). Managing personal data in a digital environment - did GDPR's concept of informed consent really give us control? *Computer law, AI, data protection & the biggest tech trends*, Brno: MSD.
16. Kecskés, G. – Karácsony, G. – Glavanits, J. (2021). *Tech-Augmented Legal Environment (TALE) – A Paradigm Shift in Legal Research and Practice*. 12th IEEE international conference on cognitive infocommunications, Győr.
17. Khan, L. M. (2019). The Separation of Platforms and Commerce. *Columbia Law Review*, Vol. 119, No. 4: 973-109.
18. Klimek, L. (2013). Effective Enforcement of Sanctions for Market Abuse in the EU: Introduction of Criminal Sanctions. *Czech Yearbook of International Law*, New York: Juris Publishing.
19. Klimek, L. (2020a). Misuse of Contactless Payment Cards With Radio-Frequency Identification. *Masaryk University Journal of Law and Technology*, Vol. 14, No. 2: 259–274.
20. Klimek, L. (2020b). European responses criminalising online solicitation of children for sexual purposes. *Balkan Social Science Review*, Vol. 16, 7–21.
21. Klouda, J. (2020). *Právní transformace vlivem nových technologií [Legal transformation due to new technologies]*. In. Škrabka, J. a Vacuška, L. (ed.). Právo v podnikání vybraných členských států Evropské unie. Sborník příspěvků k XII. ročníku mezinárodní vědecké konference. Praha: TROAS, s.r.o.
22. Králik, J. - Králiková, K. – Kozák, P. (2021): Právna ochrana osobných údajov De Lege Lata. *Sociální média v oblasti řízení lidských zdrojů IV*. Uherské Hradiště: Akademie krizového řízení a managementu.
23. Kubincová, S. et al. (2019). *Finančné právo, daňové právo a správne právo v európskom priestore. [Financial law, tax law and administrative law in the European area]*. Banská Bystrica: Belianum.
24. Lopatka, J. E. (2011). Market Definition?, *Review of Industrial Organization*, 39 (1): 69–93.

25. Medzini, R. (2022). Enhanced self-regulation: The case of Facebook's content governance. *New Media & Society*, 24(10), 2227-2251. doi: 10.1177/1461444821989352.
26. Miskolczi-Bodnár, P. – Szuchy, R. (2017). Joint and Several Liability of Competition Law Infringers in the Legislation of Central and Eastern European Member States. *Yearbook of Antitrust and Regulatory studies*, No. 15.
27. Miskolczi-Bodnár, P. (2015). *Visszaélés gazdasági erőfölénnyel [Abuse of Economic Dominance]*. [In.] Tóth, András; Juhász, Miklós; Ruszthiné, Juhász Dorina (eds) Kommentár a tisztességtelen piaci magatartás és versenykorlátozás tilalmáról szóló 1996. évi LVII. törvényhez, Gazdasági Versenyhivatal.
28. Mulaj, V. (2022). Protection of Competition from Abuse with Dominant Positions and Anticompetitive Agreements in the Kosovo Market. *Studia Iuridica Lublinensia*. Vol. 31. 207-227, doi: 10.17951/sil.2022.31.2.207-227.
29. Nyman-Metcalf, K. – Dutt, P. K. – Chochia, A. (2014). *The Freedom to Conduct Business and the Right to Property: The EU Technology Transfer Block Exemption Regulation and the Relationship Between Intellectual Property and Competition Law*. In: Kerikmäe T. (eds) Protecting Human Rights in the EU. Springer, Berlin, Heidelberg. doi: 10.1007/978-3-642-38902-3_4.
30. Osztovits, A. (2012). *Quantifying Harm in Action for Damages Based on Breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union – Some Remarks on the Draft Guidance Paper of the European Commission*. [In.] András, Osztovits (eds) Recent developments in European and Hungarian competition law, Budapest: Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar.
31. Signoret, L. (2020). Code of competitive conduct: a new way to supplement EU competition law in addressing abuses of market power by digital giants, *European Competition Journal*, 16:2-3, 221-263.
32. Peráček, T. (2020). The perspectives of European society and the European cooperative as a form of entrepreneurship in the context of the impact of European economic policy. *Online Journal Modelling the New Europe*, (34): 38-56.
33. Pirošíková, M. - Siman, M. (2012). *Ľudské práva: Vybrané rozhodnutia Európskeho súdu pre ľudské práva a Súdneho dvora Európskej únie [Human rights: Selected*

judgments of the European Court of Human Rights and the Court of Justice of the European Union]. Bratislava: Euroiuris.

34. Plavčan, P. - Funta, R. (2020). Some Economic Characteristics of Internet Platforms. *Danube*, (2): 156-167, doi: 10.2478/danb-2020-0009.
35. Posner, R. A. (2019). *Antitrust Law*. Second Edition. Illinois: The University of Chicago Press.
36. Rutgers, J. - Sauter, W. (2021). Promoting Fair Private Governance in the Platform Economy: EU Competition and Contract Law Applied to Standard Terms. *Cambridge Yearbook of European Legal Studies*, 23, 343-381. doi:10.1017/cel.2021.11.
37. Shao, S. (2021). Antitrust in the Consumer Platform Economy: How Apple Has Abused its Mobile Platform Dominance. Berkeley Tech. L.J., Vol. 36, 353-412. doi: 0.15779/Z380K26C09.
38. Sitek, B. – Roman, L. (2016): *The Selected Contemporary Aspects of Human Rights*. Jozefow: WSGE.
39. Sitek, M. (2017). *The human rights to communicate in the light of the development of IT technology at the turn of the XX and XXI centuries*, W: M. Sitek, A.F. Uricchio, I. Florek (eds), Human rights between needs and possibilities, Józefów: WSGE.
40. Schweitzer, H. - Haucap, J. - Kerber, W. - Welker, R. (2018). Modernizing the Law on Abuse of Market Power. *Report for the Federal Ministry for Economic Affairs and Energy (Germany)* (September 17, 2018).
41. Stehlík, V. – Hamuľák, O. - Petr, M. (2017). *Právo Evropské unie: ústavní základy a vnitřní trh [European Union law: constitutional foundations and the internal market].* Praha: Leges.
42. Svák, J. (2000). Zásady a tendencie v ochrane práva na súkromie [Principles and tendencies in the protection of the right to privacy]. *Justičná revue*, no. 11. 1199-1215.
43. Svoboda, P. - Munková, J. - Kindl, J. (2012). *Soutěžní pravo [Competition law]*. 2. vydání, Praha: C.H.Beck.
44. Szegedi, A. (2014). *Several Thoughts on the Coming Into Force of the New Hungarian Civil Code, With Respect to Company Law*. In: Damian, Czudek; Michal, Kozieł (szerk.) Legal and Economic Aspects of the Business in V4 Countries. Csehország: Centrum Prawa Polskiego, pp. 235-250.

45. Šmejkal, V. (2014). Výběr spotřebitele - nové paradigma pro globální antitrust? [Consumer choice - a new paradigm for global antitrust?]. *Antitrust: Revue soutěžního práva*, No. 1: 11-18.
46. Šmejkal, V. (2016). Výzvy pro evropský antitrust ve světě vícestranných online platforem [Challenges for European antitrust in a world of multilateral online platforms]. *Antitrust: Revue soutěžního práva*, No. 4: 105-114.
47. Šmejkal, V. (2020). Concentrations in Digital Sector - A New EU Antitrust Standard for "Killer Acquisitions" Needed?. *Intereulaweast,* Vol. VII (2) 1-16, doi: 10.22598/iele.2020.7.2.1.
48. Šramel, B. - Horváth, P. (2021). Internet as the communication medium of the 21st century: do we need a special legal regulation of freedom of expression on the internet? *The Lawyer Quarterly*. No. 1.
49. Škrabka, J. (2020). Geoblocking z pohledu proměny právní regulace v globalizované společnosti. In Aleš Gerloch, Katarzyna Žák Kryžanková. *Právo v měnícím se světě*. 1. vyd. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk.
50. Wen, W. - Feng, Z. (2018). Threat of Platform-Owner Entry and Complementor Responses: Evidence from the Mobile App Market, *Strategic Management Journal 40,* No. 9: 1336–1367.
51. Whish, R. - Bailey, D. (2018). *Competition Law*. 9th. Edition, Oxford: Oxford University Press.
52. Yara, O. - Brazheyev, A. - Golovko, L. - Bashkatova, V. (2021). Legal Regulation of the Use of Artificial Intelligence: Problems and Development Prospects. *European Journal of Sustainable Development*. 10(1), 281. doi: 10.14207/ejsd.2021.v10n1p281.
53. Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 31, 5.2.2004.
54. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation).
55. Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

56. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services.
57. Regulation of the European parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act), 2020/0374(COD) final.
58. C-27/76, United Brands Company and United Brands Continentaal BV v Commission of the European Communities, ECLI:EU:C:1978:22.
59. C-322/81, NV Nederlandsche Banden Industrie Michelin v Commission of the European Communities, ECLI:EU:C:1983:313.
60. C-333/94 P, Tetra Pak International SA v Commission of the European Communities, ECLI:EU:C:1996:436.
61. T-201/04, Microsoft Corp. v Commission of the European Communities, ECLI:EU:T:2007:289.
62. C-407/04 P, Dalmine SpA v Commission of the European Communities, ECLI:EU:C:2007:53.
63. C-209/10, Post Danmark A/S v Konkurrencerådet, ECLI:EU:C:2012:172.
64. C-411/15 P, Timab Industries and Cie financière et de participations Roullier (CFPR) v European Commission, ECLI:EU:C:2017:11.
65. T-612/17, Google LLC, anciennement Google Inc. and Alphabet, Inc. v European Commission (Google Shopping), ECLI:EU:T:2021:763.
66. EU Commission, decision of June 27, 2017, AT.39740 - Google Search (Shopping).
67. EU Commission, decision of July 18, 2018, AT.40099 - Google Android.