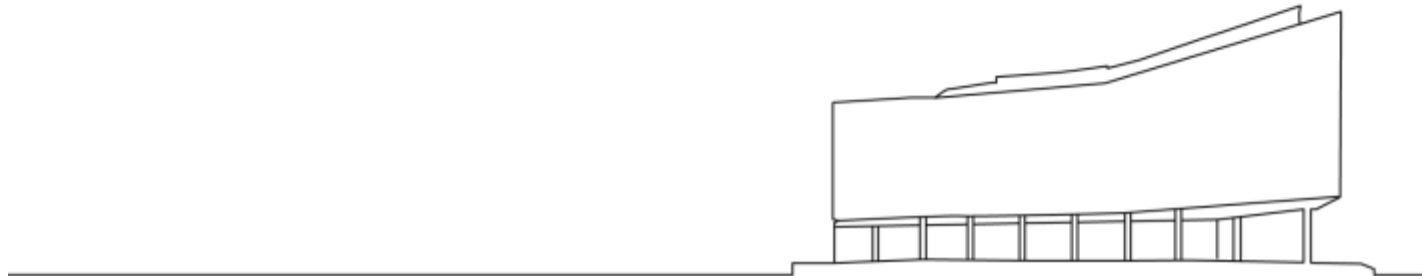
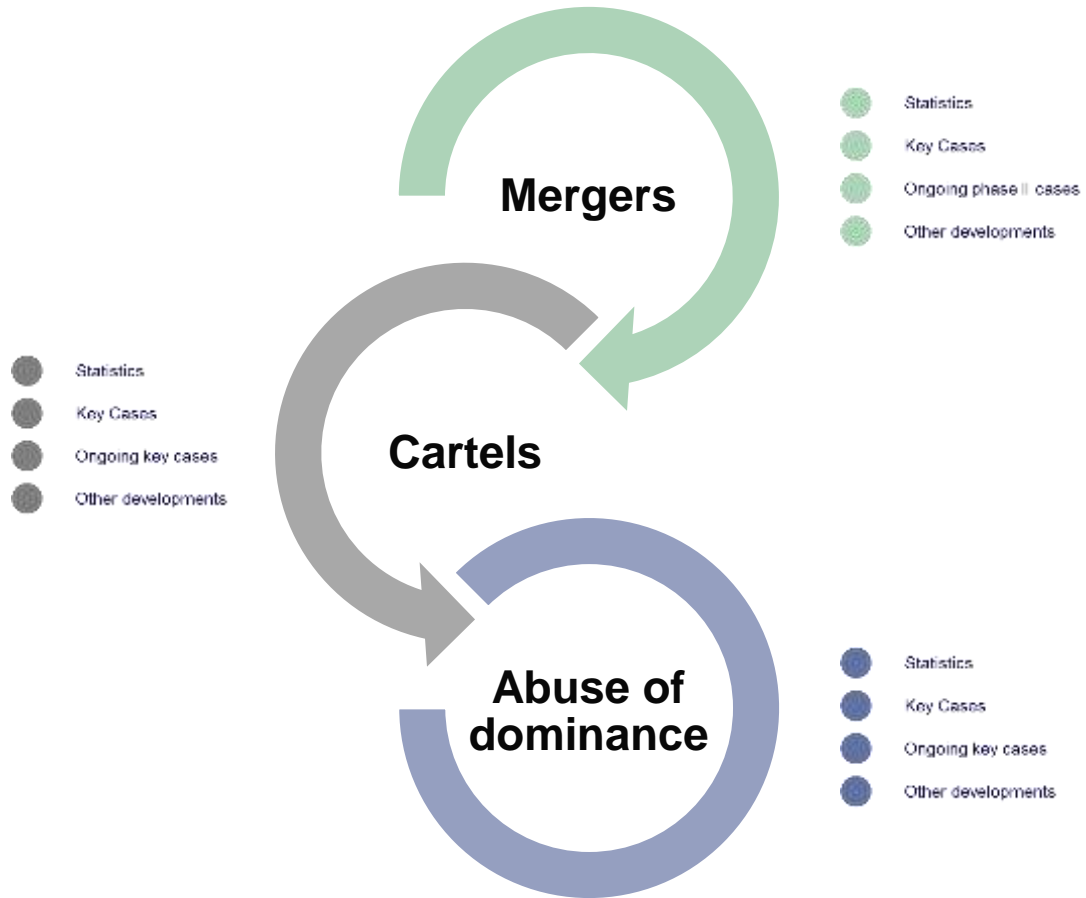


Developments in EU and Dutch Competition Law

Key developments 2018



Developments in EU and Dutch Competition Law





- Statistics
- Key Cases
- Ongoing phase II cases
- Other developments

Mergers



DG COMPETITION		2017	2018
Notified cases		380	389
Phase I	Clearance without commitments	353	325
	Clearance with commitments	18	14
Phase II proceedings initiated		7	11
Phase II	Clearance without commitments	0	3
	Clearance with commitments	2	5
	Prohibition	2	0

30 November 2018

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Mergers



Key Cases

Topic	Name	Case
Innovation	Bayer / Monsanto	M.8084
Common shareholding	Bayer / Monsanto	M.8084
4-to-3 mergers	T-Mobile NL / Tele2NL	M.8792
Data-driven mergers	Apple / Shazam	M.8788
Gun jumping	Altice / PT Portugal	M.7993
	Ernst & Young	C-633/16

Statistics

Key Cases

Ongoing key cases

Other developments

Mergers – Key cases

Innovation | M.8084 - Bayer / Monsanto

Concerns

- **Largest integrated player** - largest portfolio of pesticides products and strongest market positions in seeds and traits.
- **Pesticides** - Bayer and Monsanto one of the few competitors capable of discovering new active ingredients and developing new formulas.
- **Seeds** - high combined market shares in various vegetable seeds markets. Bayer and Monsanto both important licensors of cotton seeds to their competitors and both investing in research and innovation programs for wheat.
- **Traits** - Monsanto dominant in several traits markets worldwide. Bayer one of Monsanto's few competitors in certain traits markets and has developed alternative herbicide tolerance traits to Monsanto's.

Clearance reasons

- **Pesticides** - divestment of Bayer's glufosinate assets, 3 lines of research for non-selective herbicides and seed treatment assets and products to BASF.
- **Seeds** - divestment of Bayer's entire vegetable seed business, including its R&D organisation to ensure same number of global vegetable seeds R&D players.
- **Broadacre seeds & traits** - divestment of Bayer's global broadacre seeds and trait business, including its R&D organisation to BASF to remove all horizontal overlaps and to ensure same number of global integrated traits players and global broadacre seeds players.
- **Digital agriculture** - divestment of Bayer's global digital agriculture assets and products. The buyer will grant to Bayer a temporary license back to these assets and products.

"Competition on innovation has also increasingly become a focus of our merger cases"

Take-away

Mergers with major R&D elements:

- Anticipate focus on innovation in investigation.
- Anticipate extensive information gathering on IP rights, R&D spending, recent products, pipeline products, plans.
- Consider viable, mainly structural, remedies possibly beyond R&D activities and production capacity.



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Mergers – Key cases

Common Shareholding | M.8084 - Bayer / Monsanto

Concerns

The agrochemical industry is characterised by a significant level of common shareholding in terms of the number of shareholders common to several competitors and in the level of shares these common shareholders possess across the industry.

This has an impact on the analysis of the following:

- price competition;
- innovation competition;
- level of market concentration and market power;
- coordinated effects;
- remedy scenarios.

Clearance reasons

- Common shareholding in the agro-chemical industry should be taken 'as an element of context in the appreciation of any significant impediment to effective competition'.
- Assessment of concentration levels by other measures than HHI.

Observation

- Shareholding threshold: possible amendment of EU Merger Regulation? For instance by introducing:
 - threshold triggering review in case of $\geq 25\%$ non-controlling minority shareholding acquisition;
 - safe harbour for minority shareholdings $< 15-10\%$.

"..when investors have an interest in several companies in the same market, they might be better off if those companies don't compete too hard (...) To know if this is something that competition policy needs to respond to we (...) need to understand what effect it really has.."

Take-away

Mergers in industries with concentrated shareholder structures:

- Anticipate detailed information gathering regarding all shareholders and affiliation relationships in each relevant market;
- Anticipate detailed market data requests;
- Reform of EU Merger Regulation upcoming?



Mergers – Key cases

4-to-3 mergers | M.8792 - T-Mobile NL / Tele2 NL

Statistics

Key Cases

Ongoing phase II cases

Other developments

Concerns

- **Higher prices:** limited incentive by the merged entity to compete effectively with the remaining operators in the retail mobile telecommunications market, leading to higher prices and less investment.
- **Coordination:** reduced number of mobile network operators could lead to increased risk of coordination and increased prices on retail markets.
- **Wholesale access:** prospective and current mobile virtual network operators may face difficulties in obtaining favorable wholesale access terms from mobile network operators.

Clearance reasons

- **Higher prices:** merger will unlikely lead to significant price increases because of limited combined market position and relatively small increment brought by Tele2 NL.
- **Coordination:** increased coordination risk unlikely, particularly because the other two mobile network operators have different strategies and incentives largely based on cross-selling mobile services to their fixed customer base.
- **Wholesale access:** no serious impact on the level of competition if there would be a change in conditions for virtual network operators. Tele2 not active on the wholesale market.

Take-away

4-to-3 Mergers:

- First unconditional clearance of 4-to-3 mobile telecoms merger since 2014!
- No “magic number” for the number of mobile network operators required to ensure a competitive mobile telecoms markets. It depends on the specific characteristics of the national market in question.

Statistics

Key Cases

Ongoing phase II cases

Other developments

Concerns

- **Commercially sensitive data:** use by Apple of commercially sensitive data about customers of its rival streaming services to encourage these customers to switch to Apple Music.
- **Gateway position:** Shazam's strong position in the market for music recognition apps could harm Apple Music's competitors if Apple, after the transaction, were to discontinue referrals from the Shazam app to them.

Clearance reasons

- **Commercially sensitive data:** access to Shazam's data would not materially increase Apple's ability to target music enthusiasts. Conduct to encourage customers to switch has negligible impact.
- **Integrated data sets:** the integration of Shazam's and Apple's datasets on user data would not confer a unique advantage to the merger entity. Shazam's data is not unique and Apple's competitors still have access and can use similar databases.
- **Gateway position:** merged entity unable to shut out competitors by restricting access to Shazam app as it has a limited importance as entry point to the music streaming services of Apple Music's competitors.

Take-away

Mergers in data-driven sectors:

- anticipate focus on value and uniqueness of the data involved.
- anticipate investigation of potential foreclosure effects.
- possible amendment of EU Merger Regulation introducing a transaction or data set value threshold?

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Mergers – Key cases

Gun jumping

M.7993 – Altice/PT Portugal

C-633/16 – Ernst & Young

Case conclusion

Fine of EUR 124.5 million imposed on Altice for implementing its acquisition of PT Portugal before notification or approval by the Commission.

Reasons

- **Veto rights:** purchasing agreement enabled Altice to veto decisions relating to PT Portugal's ordinary course of business.
- **Exercise of veto:** Altice had used this veto power to decide on PT Portugal's day-to-day business operations.

Case background

Preliminary ruling request on whether KPMG Denmark's signing of the merger agreement with EY on the same date as terminating its cooperation agreement with KPMG International resulted in gun jumping.

Conclusion





EUMR: A concentration is implemented when there is a change of control on a lasting basis. Control is defined as decisive influence over the target.

European Court of Justice: Preparatory measures, carried out in the context of a concentration, but not contributing to a change of control **do not constitute gun jumping**.


Take-away

Gun jumping guidelines:

- Check whether veto rights in purchase agreement do not interfere with target's ordinary business decisions.
- Refrain from influencing any decision regarding the Target's day-to-day business (personnel, pricing, marketing, customers or suppliers).
- Only exchange strategic or commercial information, preferably within the framework of a non-disclosure / confidentiality agreement, if there is a transaction-related justification to do so.
- Check whether minority shareholdings result in the acquisition of control, for instance based on wide dispersion of remaining shares and previous attendance rates at shareholders' meetings. **NB:** acquisition of control is decisive, not the question whether control was actually exercised.

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Mergers


Ongoing phase II cases

Case	Parties
<u>M.8713</u>	Tata Steel / ThyssenKrupp / JV
<u>M.8900</u>	Wieland / Aurubis Rolled Products / Schwermetall
<u>M.8907</u>	Aperam / VDM
<u>M.8947</u>	Nidec / Whirlpool
<u>M.8677</u>	Siemens / Alstom
<u>M.8674</u>	BASF / Solvay's EP and P&I business
<u>M.8864</u>	Vodafone / certain Liberty Global assets

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Mergers

Ongoing phase II cases | M.8677 - Siemens / Alstom

Concerns

- **Unlikely entry** of new competitors into EEA rolling stock or signalling solutions markets.
- **Rolling stock:** removal of strong competitor and reduction of number of suppliers. Merged entity would become market leader in (i) high speed trains and (ii) mainline and metro rolling stock.
- **Signalling solutions:** removal of strong competitor from several mainline and urban signalling markets.
- **Remedies** offered to sell certain high-speed rail technology, including part of Alstom's Pendolino business or a fixed-term licence for Siemens' Valero trains, and parts of several signalling businesses.

Clearance reasons



- letter by CMA, ACM, CNMC and BCA:
 - Remedies offered to the Commission by Siemens/Alstom are insufficient to address the concerns raised;
 - Behavioural remedies such as transfer of technology difficult to monitor.



- Call to the Commission by 18 EU member states to take account of fierce international competition for the European industry.

Take-away

- National champions-reasoning resonating in merger review?
- Remedies in merger review under fire?
- Reform of EU Merger Regulation upcoming?

- Statistics
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Mergers

Other developments | EU Merger Regulation reform

Information available

- Evaluation paper on the ongoing review of the EU Merger Regulation expected soon with likely focus on:
 - simplifying the merger procedure for parties;
 - introducing transaction-value thresholds to cover tech mergers and 'killer acquisitions' in pharma sector;
 - minority shareholding acquisitions;
 - assessment of common shareholdings.
- Best practices on requests for internal documents under the EU Merger Regulation upcoming.
- Increased international cooperation.
- More attention to innovation arguments.
- Increased scrutiny of structural / behavioural remedies.
- More guidance on gun jumping rules.

Take-away

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- Feel free to **call us** to discuss future developments and their potential impact on your business operations.

- Statistics
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Cartels



Statistics

DG COMPETITION	2017	2018
Fines imposed	EUR 1,945,656,000	EUR 800,748,000
Number of decisions per company	21	20
Number of cartel cases decided	7	4

DG Competition's statistics – last change 21 March 2018

Statistics

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Cartels



Key Cases



Topic	Name	Case
Online resale restrictions	Consumer Electronics	AT.40465 - Asus AT.40469 - Denon & Marantz AT.40181 - Philips AT.40182 - Pioneer
	Guess	AT.40428
	Prijsvrij.nl / Thomas Cook	ECLI:NL:RBAMS:2018:6443
	Consumer goods	ACM press release of 27 December 2018
Cooperation outside cartel cases	Consumer Electronics	See above
	Guess	See above
	ACM settlement guidelines	Staatscourant 2018 nr. 71890
Parental liability	Goldman Sachs	T-419/14
Dawn raids	České dráhy	T-325/16 and T-621/16
	ZSSK	AT.40565
	District court The Hague	ECLI:NL:RBDHA:2018:12722

- Statistics
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Cartels

Key Cases | Online sales restrictions

Consumer Electronics

- **Resale price maintenance:** four electronics manufacturers imposed fixed and minimum resale prices on their online retailers for widely used consumer electronics products.
- **Monitoring tools:** use of pricing algorithms to track resale price setting and to swiftly intervene in case of price decreases
- **Cross-border:** Pioneer also limited its retailers to sell cross-order to consumers in other EU member states to sustain different resale prices in different EU member states.

€ 111 million

Guess

- **Online search advertising:** restriction on authorised retailers from using the Guess brand names and trademarks.
- **Resale price maintenance:** restriction on authorised retailers to independently decide on retail price.
- **Online sales:** restriction to sell online without prior specific authorisation by Guess, which was not based on specified quality criteria.
- **Cross-border:** restriction to sell to consumers located outside the authorised retailers' allocated territories.
- **Cross-selling:** restriction on cross-selling among authorised wholesalers and retailers.

€ 40 million

Prijsvrij.nl / Thomas Cook

- **(Indirect) resale price maintenance:** discounts offered by online travel agent led tour operator to reduce the travel agent's commission and (eventually) terminate the agency agreement.
- **Amsterdam District Court:** in the case of a hard-core restriction, such as resale price maintenance, an economic analysis of the consequences, effects and appreciability on the relevant market is not required.

Void

Consumer goods

Resale price maintenance: the ACM is investigating minimum-price agreements between consumer-goods manufacturers and online and offline retailers.

€ ??

Take-away

- European Commission likely to continue its vertical restraints crusade.
- ACM likely to catch up.
- **Check your distribution contracts and conduct!**

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Cartels

Key Cases | Cooperation outside cartel cases



Cartel Cases

Calculation of fine = max. 10% of turnover

Basic fine

Percentage of value of relevant sales (0-30%);
 x
 Duration (years or periods less than one year);
 +
 15-25% of value of relevant sales: additional deterrence for hard-core cartels;

Aggravating factors:
 • ring leader
 • recidivism
 • obstruction

Mitigating factors
 • limited role
 • cooperation

Possibly further decreased by:
 • leniency
 • settlement (10%)



Non-cartel cases

Calculation of fine = max. 10% of turnover New Development

Leniency and settlement options not available

Introduction of cooperation procedure:
 • Acknowledgement of facts, legal qualification and liability for infringement
 • Cooperation on evidence
 • Proposal, design and implementation of suitable remedies

These are rewarded with fine reduction.

• level of reduction: depends on overall assessment of timing, extent and procedural efficiencies gained

- ARA-case: 30% reduction
- Consumer Electronics-cases: 40-50% reduction
- Guess-case: 50% reduction



ACM settlement

Calculation of fine = max. 10% of turnover New Development

The ACM recently published **guidelines on settlement** in fining cases:

- Acknowledgement of infringement;
- Acceptance of fine.

These are rewarded with 10% fine reduction.

Take-away

Consider which approach to take and when to take it during antitrust investigations.

- Statistics
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Cartels

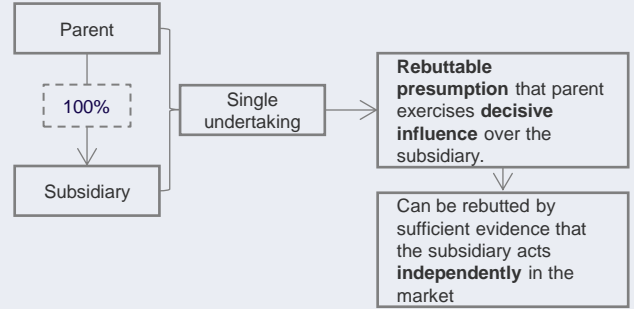
Parental liability | T- 419/14 – Goldman Sachs

Background

General Court

Power cable cartel: EUR 37.3 million fine imposed on Goldman Sachs because of conduct by its portfolio company Prysmian on the basis of parental liability.

Settled case law:



New development:

- Goldman Sachs was in a **similar situation as a sole owner** - even though it did not hold all the share capital - **because it held all the voting rights** in combination with a very high majority stake.
- Decisive influence can also be demonstrated by:
 - power to appoint members of the subsidiary's board of directors.
 - ability to call shareholder meetings.
 - role played by parent company's directors within subsidiary's strategic committee.

Take-away

- Companies should perform thorough due diligence before acquiring a company.
- Investors should ensure their portfolio companies are compliant with competition law, even when they are considered as a pure financial investment.

Key Cases | Dawn Raids

T-325/16 and T-621/16 – České dráhy

- **Scope of dawn raid decision:** first dawn raid at the premises of the main Czech railway operator, České dráhy based on a dawn raid decision the scope of which was defined as including, but *not limited* to, predatory pricing behaviour on the Prague - Ostrava line after 2011. The General Court annulled the dawn raid decision: based on the information the Commission had at the time, it had sufficient grounds only to suspect a predatory pricing infringement on the Prague-Ostrava line.
- **Accidental 'treasures':** second dawn raid based on information found in documentation the Commission obtained at its first dawn raid. According to the General Court, the Commission was within its rights to seize the documents, since, even if the documentation was only indirectly linked to the suspected predatory pricing, the Commission was entitled to seize documents relevant for determining both the direct and the indirect costs on the concerned route.

AT.40565 – ZSSK

IT-related dawn raid obstruction: the Commission sent a statement of objections to Slovakian state-owned railway company ZSSK for obstructing a dawn raid. The Commission suspects ZSSK of (i) having provided incorrect information on the location of the laptop of one of its employees and (ii) failing to provide requested data, which was lost when the company reinstalled the laptop.

District Court The Hague - ECLI:NL:RBDHA:2018:1272

2014 Procedure: contrary to the 2014 Procedure, the ACM had collected data from a number of individuals that were not on the list of employees targeted for inspection which was handed over to the company at the dawn raid. According to the District Court, the 2014 Procedure aims to regulate the ACM's inspection powers and companies subject to an inspection should be able to rely on the ACM to act accordingly. The District Court therefore ruled that the data collected from those individuals should be excluded from the investigation.

Take-away

- Check which information on the suspected infringement is available to the competition authorities, to determine legitimate scope of dawn raid.
- Have clear dawn raid instructions, to prepare not only your key personnel but also IT staff, on their responsibilities during a dawn raid.
- Ensure your dawn raid instructions are in line with the European Commission's [explanatory note](#) and the ACM's [2014 Procedure](#).

Statistics

Key Cases

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Ongoing key cases

Name	Investigation
Video games	Bilateral agreements concluded between Valve Corporation, owner of the Steam game distribution platform, and five PC video game publishers (Bandai Namco, Capcom, Focus Home, Koch Media and ZeniMax) potentially prevent consumers from purchasing digital content, in this case PC video games, because of the consumer's location or country of residence.
Holiday pricing	Certain clauses in agreements regarding hotel accommodation concluded between the largest European tour operators on the one hand (Kuoni, REWE, Thomas Cook, TUI) and hotels on the other hand (Meliá Hotels) may discriminate between customers, based on their nationality or country of residence.
Licensed merchandise	Three separate antitrust investigations into whether certain licensing and distribution practices of Nike, Sanrio and Universal Studios illegally restrict traders from selling licensed merchandise cross-border and online.
Airline ticket distribution	Certain terms in Amadeus' and Sabre's agreements with airlines and travel agents may restrict the ability of airlines and travel agents to use alternative suppliers of ticket distribution services.
Car emissions	Potential collusion between BMW, Daimler and VW (Volkswagen, Audi, Porsche) to avoid competition on the development and roll-out of technology to clean the emissions of petrol and diesel passenger cars.
SSA Bonds	At different periods between 2009 and 2015, four banks may have exchanged commercially sensitive information and coordinated on prices concerning US dollar denominated supra-sovereign, sovereign and agency bonds, known as "SSA bonds".

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Cartels

Other developments

Geo-blocking Regulation

[Regulation 2018/302](#), applicable since 3 December 2018, addresses unjustified online sales discrimination based on customers' nationality, place of residence or place of establishment within the EU.

ECN+ Directive

The [ECN+ Directive](#) aims to empower the EU national competition authorities by giving them additional tools to enforce the EU competition rules. EU Member States have until 4 February 2021 to implement the Directive.

Evaluation of the Vertical Block Exemption Regulation

The [Vertical Block Exemption Regulation](#), which exempts certain agreements and practices from the EU's general competition rules, expires on 31 May 2022. The evaluation will check whether the Regulation is still effective, efficient, relevant, in line with other EU legislation and adds value. The Commission will use the evaluation to decide whether to let the Regulation lapse, to prolong or to revise it.

ACM guidance

Two upcoming guidelines:

- Guidelines on horizontal cooperation to replace "[Richt snoeren Samenwerking Ondernemingen](#)".
- Guidelines on vertical agreements to replace the publication "[ACM's strategy and enforcement priorities with regard to vertical agreements](#)".

Report on digitisation and competition policy

The Commission has appointed an expert panel of three advisors to work on a [report](#) on the future challenges of digitisation for competition policy. The report will be available by 31 March 2019.

Take-away

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Abuse of dominance



Statistics

DG COMPETITION	2017	2018
Fines imposed	EUR 2.45 billion	EUR 997 million
Number of cases decided	4	2

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Abuse of dominance



Key Cases 

Topic		Name	Case
Exclusivity payments		Qualcomm	AT.40220
		Google Android	AT.40099
Pharma	Market definition	Servier	T-691/14
	Excessive pricing	OECD notes	European Commission
			ACM
		ACM Working Paper	Reconciling competition and IP law: the case of patented pharmaceuticals and dominance abuse
Discrimination		MEO	C-525/16
		Funda	ECLI:NL:RBAMS:2018:1654

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Abuse of dominance

Key Cases | Exclusivity cases

AT. 40220 - Qualcomm

€ 997 million

“..Qualcomm itself presented us with an as efficient competitor test. But there were serious problems with the way it was done, which meant it didn't actually prove that the rebates couldn't harm competition..”



- **Dominance:** > 90% market share in the global market for LTE based chipsets.
- **Exclusivity payments:** significant payments to key customer Apple for exclusive use of Qualcomm's chipsets.
- **Qualcomm prevented competitors from competing for Apple's significant business.**
- **As efficient competitor (AEC)-test:** Qualcomm's evidence that its exclusivity payments had no anti-competitive effects according to AEC-test was rejected by Commission.

AT.40099 - Google Android

€ 4.34 billion

- **Dominance:** in markets for general internet search services, licensable mobile operation systems and app stores for the Android mobile operating system.
- **Tying, exclusivity payments and obstruction.**



Exclusivity and dominance:

- Rebuttable presumption that exclusivity and loyalty rebates may constitute abuse.
- Presumption can be rebutted by providing proof that the conduct is incapable of restricting competition taking account of, for instance, the counterbalancing efficiencies for consumers.

Take-away

- Statistics
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Abuse of dominance

Key Cases | Pharma

T-691/14 – Servier

Commission imposed fines on Servier and five generic companies for concluding settlement agreements related to the medicine perindopril to refrain them from entering the market or challenging Servier's patent:

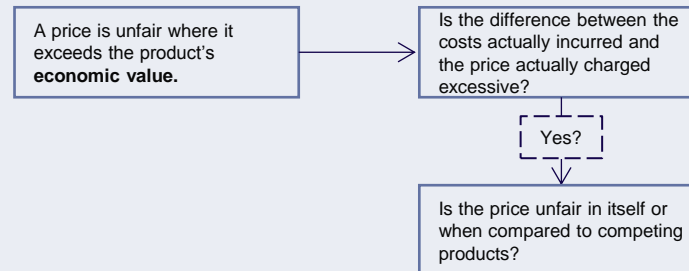
- **Abuse:** Servier used its dominance in the market for the perindopril molecule to delay generic companies from entering the market.
- **Pay-for-delay:** the reverse payment patent settlements constituted restrictions by object.

General Court ruled that

- **Market definition:** no separate market for perindopril. Servier was not dominant because the Commission wrongly found that perindopril differed from other medicines of the same class, excessively relied on price and underestimated the propensity of patients to switch medicines. Hence, there could be **no abuse without dominance**.
- **Pay-for-delay agreements:** constitute **restrictions by object** if the real reason for concluding the settlement is not so much related to a recognition of the patent's validity, but is done instead with a view to inducing the generic company to stay out of the market. **The costs of the settlement are key in order to assess the inducement's significance.**

Excessive pricing

Commission: innovation and risk-taking do not preclude the application of the competition rules. The price-cost test specified in *United Brands* can be used to establish unfair pricing abuse are excessive, although other methods are also possible.



ACM: a balance needs to be struck between innovation and cost control. A stricter cost-based test should be applied to drugs that involve limited innovation in comparison with drugs that require significant investment in research and development. The most important factors to take into account for the cost-based test are (i) the probability that a drug will be authorized and successful in the market and (ii) capital costs.

Take-away

- More unfair pricing cases may be imminent in pharma sector.
- Possibility to argue that therapeutic use should be central to market definition instead of defining separate markets for each molecule.
- Settlement agreements qualify as restrictions by object if they are aimed at market exclusion, which can be assessed by determining the costs inherent to the settlement.

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Abuse of dominance

Key Cases | Discrimination

C-525/16 - MEO

Discrimination



A dominant company's trading partner is placed at a competitive disadvantage in relation to others.



To determine a competitive disadvantage:

- no need to provide proof of actual and quantifiable deterioration of trading partner's competitive position.
- assessment of the **relevant circumstances** to determine the actual or potential competitive effects of the conduct.



Relevant factors are:

- the company's dominant position.
- the negotiating power as regards the prices charged.
- the conditions and arrangements for charging those prices, their duration and amount.
- the possible existence of a strategy to exclude one the company's trading partners.

Amsterdam District Court - Funda

- Real estate agency VBO claimed online real estate platform Funda abused its dominant position by applying discriminatory contract terms to VBO.
- **Dominance:** based on the advice of three economic experts, the District Court concluded that Funda had a dominant position in the online housing market.
- **No competitive disadvantage:** the Amsterdam District Court dismissed VBO's claim. VBO had failed to demonstrate that the alleged discrimination had placed it at a competitive disadvantage.
- **The District Court based its conclusion on the experts' quantitative analysis which found no indications of distortive effects in the downstream market.**

Take-away

- No de minimis threshold for discriminatory conduct.
- Effects-based approach to determine competitive disadvantage.

- Statistics
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Abuse of dominance



Ongoing key cases



Name	Investigation
<u>Google Search</u>	Artificial restriction of the possibility of third party websites to display search advertisements from Google's competitors.
<u>Qualcomm</u>	Predatory pricing - sale certain UMTS baseband chipsets at prices below cost, with the intention of eliminating Icera, Qualcomm's main competitor in the leading edge segment of the market at that time.
<u>Lundbeck</u>	Pay-for-delay agreements in pharma sector – appeal against the General Court's judgment.
<u>Leadiant Biosciences</u>	Complaint submitted with ACM against Leadiant Biosciences for allegedly overpricing an orphan drug used for the treatment of a rare genetic disease.
<u>TNF inhibitors</u>	The ACM has launched a sector inquiry into anti-rheumatic drugs, which have relatively high prices, despite numerous available alternatives.

- Statistics
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Abuse of dominance

Other developments

Online platforms

- A draft [Regulation on fairness and transparency in online platform trading](#) introduces a harmonised framework for minimum transparency and redress rights, to protect companies that depend on online platforms for reaching consumers.
- Consultation – [discussion paper](#) by Dutch Ministry of Economic Affairs on whether further regulation is required to regulate online platforms.

Sector inquiries into digital sectors

More sector inquiries may be imminent to provide the Commission with more insights on digital markets. A digital advertising sector inquiry could be the first one to be initiated by the Commission to answer to contributions submitted in preparation for the conference “Shaping Competition Policy in the Era of Digitisation”.

Report on digitisation and competition policy

The Commission has appointed an expert panel of three advisors to work on a [report](#) on the future challenges of digitisation for competition policy. The report will be available by 31 March 2019.

Take-away

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