



ΕΠΙΤΡΟΠΗ  
ΑΝΤΑΓΩΝΙΣΜΟΥ  
ΑΝΕΞΑΡΤΗΤΗ ΔΙΟΙΚΗΤΙΚΗ ΑΡΧΗ

2019 ANNUAL REPORT

2019 ΕΚΘΕΣΗ ΠΕΠΡΑΓΜΕΝΩΝ



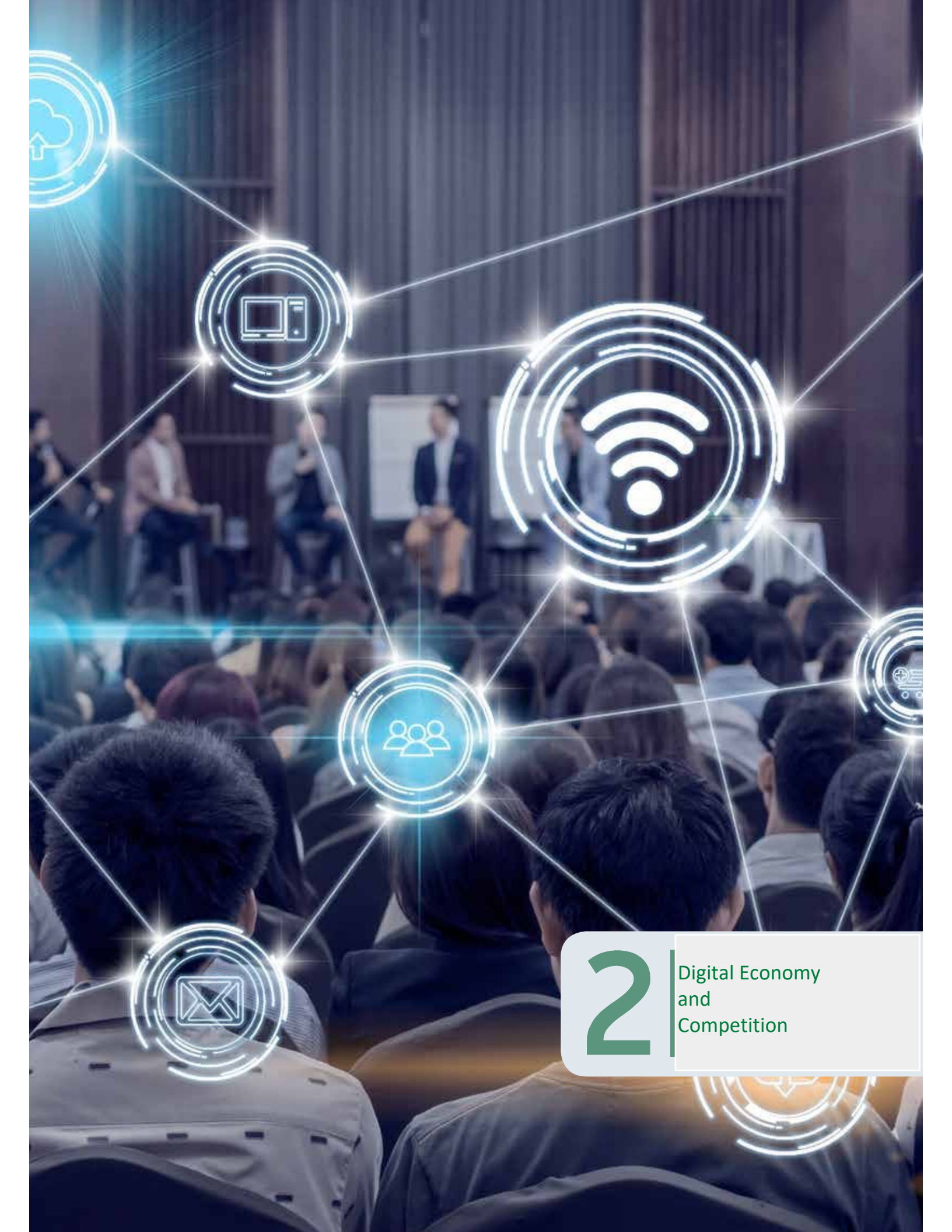
## Special Issue on “Competition and Digital Economy” on HCC's 2019 Annual Report

In this year's annual report, we introduce a new chapter on presenting Hellenic Competition Commission's (HCC) actions, which are adopted with the objective of presenting various opinions, analyses, thoughts and reflections that are notified to us or that regard important aspects that concern market players, and the wider “community” of Competition in Greece and abroad. The initial objective of the following chapter is to introduce these developments regarding economy and competition. In this way we present to our readers a special part of the daily activities of HCC's administration and staff, the one concerning updating on market developments - i.e., a continuous dialogue regarding market challenges, the way they affect competitive process and consumers, and of course what should (and will) be handled.

Given the wide range that a project like this may require, the context of a “special issue” has been adopted. In HCC's 2019 Annual Report the special issue regards “Competition and Digital Economy”, an issue that is discovered more and more by the average consumer. The ongoing “digitization” of the world in every aspect (economy, education, entertainment etc), obviously creates challenges, as well as discussion on the ways they should be addressed. Next decade is expected to bring all these challenges, that we usually read to foreign press, to the forefront of Greece. Hence the challenge for the HCC is double: firstly, HCC must possess the legal and economic tools that will assist in understanding and addressing these new phenomena and, at the same time, to have the appropriate structure and research tools within the HCC so that it can face these new challenges effectively and in time. The HCC undertook important steps to follow and have a leading role in Greece's digital economy transformation. Already, since the last semester of 2019 important steps were taken towards HCC's complete restructuring, in terms of digital economy, development of necessary technological facilities and cooperation with experts from Greece and abroad.

These thoughts and opinions are set clearly in the messages of our invited experts in this special issue. At the beginning, Mr. M. Jacobides, Professor of Strategy and Entrepreneurship in London Business School and Chief Expert Advisor on the Digital Economy at the Hellenic Competition Commission, summarizes the challenges that result from the expansion of “Big Tech” companies and the problems that arise from their actions, especially in the Greek market. Greek e-Commerce Association (GRECA) informs us for the specific challenges that the Greek market faces regarding e-commerce.

In chapter “Room with a View: The Challenges of Competition Law in 2030” we have the pleasure of hosting the Heads of three Competition Authorities of EU Member States, Mrs. Margarida Matos Rosa, President of the Portuguese Competition Authority (AdC), Mr. Andreas Mundt, President of the German Bundeskartellamt (Federal Cartel Office), as well as Mr. Martijn Snoep, Chairman of the Netherlands Authority for Consumers and Markets (ACM). In their messages all three Presidents note the special challenges that digital economy poses on competition and the action taken in order to prepare the organization of Competition Authorities to address them.



# 2

Digital Economy  
and  
Competition



## Μιχαήλ Γ. Ιακωβίδης

- SIR DONALD GORDON  
PROFESSOR OF  
ENTREPRENEURSHIP &  
INNOVATION;  
PROFESSOR OF STRATEGY  
AND ENTREPRENEURSHIP

- ΕΠΙΚΕΦΑΛΗΣ ΣΥΜΒΟΥΛΟΣ ΤΗΣ  
ΕΠΙΤΡΟΠΗΣ ΑΝΤΑΓΩΝΙΣΜΟΥ  
ΓΙΑ ΖΗΤΗΜΑΤΑ ΨΗΦΙΑΚΗΣ  
ΟΙΚΟΝΟΜΙΑΣ

## EU Big Tech regulation: Good job on trees, but what about the forest?

**Michael G. Iacobides**

*Sir Donald Gordon Professor of Entrepreneurship & Innovation; Professor of Strategy and Entrepreneurship*

*Chief Expert Advisor on the Digital Economy at the Hellenic Competition Commission*

On 15 December, the EU unveiled the Digital Markets Act and the Digital Services Acts (DMA/DSA), the most thorough reworking of the digital regulatory landscape to date. Given the fact that many tech players may adjust to the “highest common denominator” in terms of regulation, to avoid multiple offerings, and given the EU's leadership in regulating tech and the appetite of the US to regulate Big Tech, these rules may extend well beyond Europe.

Much of the DMA is focused on a stricter approach to so-called ‘gatekeepers’ - i.e., the dominant, Big Tech companies such as Facebook and Google. The Act is the EU's response to growing unease over our existing regulatory apparatus, which is ill-suited to address the exclusion of rivals and customer abuse in digital marketplaces. Moreover, Europe is concerned about losing out in the digital economy - since “Big Tech” just so happens to be based in the US.

A gatekeeper is a particularly powerful player that may need to be held to higher standards. In deciding what constitutes a gatekeeper, the European Commission focused primarily on customer reach, total turnover and market capitalisation. It concentrated on firms that use their technology platforms to engage with partner firms through multi-party ecosystems and identified practices that should be banned and controls that should be imposed. Although gatekeepers are open to competition in principle, the key offenders -- such as Google, Apple, Facebook and Amazon - are entrenched, partly due to multi-product ecosystems that actively lock customers in (which unfortunately is not explicitly mentioned in the current EU proposals).

What defines these “multi-party ecosystems”? They have based their growth on expanding into an ever-increasing number of verticals or diagonal relationships, as mentioned in a recent study by Evolution Ltd (see <https://www.evolutionltd.net/post/regulating-big-tech-in-europe>). In Google's case, this journey began with search, before progressing to email and storage, - for free, by name, since Google has used its knowledge of exactly what each user wants in order to sell personalized advertising. So if the user stays in the “multi-product ecosystem” provided by the company, then his ability to sell personalized ads increases. That was the reason for Google's expansion into the content streaming market through the YouTube market, and the reason why it later invested in creating the Android mobile ecosystem. All these extensions allow Google to further increase the information about each user and the time users spend in its ecosystem. Accordingly, the intention to expand in the health sector through the acquisition of FitBit shows the interest in creating an ever-increasing digital footprint. Facebook, meanwhile, is tightening the links between the parts of its own ecosystem comprising Instagram and WhatsApp, and is keen to expand into new areas- e.g., finally launch Libra, its own currency.



This multi-product ecosystem approach goes well beyond the conglomerate strategies deployed by the commercial titans of yesteryear. Today's Big Tech firms don't just want to cross-sell or benefit from common overheads. Instead, these companies draw strength from "network effects" which are based on the fact that customers want to participate in networks where there are other users, which strengthens the networks and platforms that already have a dominant position. In addition, the strength of large technology companies is based on the creation of a virtuous circle based on the data and engagement of their customers: Their range allows a deep and detailed understanding of the activities and interests of their customers, which gives strength to current services they provide and allows their entry into new ones.

Rather, «Big Tech» companies harvest their power from users in a cycle that reinforces their strength: their scope enables a deep and detailed understanding of their customers' activities and interests, which begets strength in the current services they provide and allows for entry into new ones --all amplified by AI (Artificial Intelligence) capabilities that allow them to build and test predictive models in real time, further improving both their efficiency and their profitability.

The sheer breadth and duration of customers' engagement underpins the success of Big Tech firms, but each one leverages this access, and the information that it yields, in a different way. The business models of both Google and Facebook depend directly on data that customers generate simply by using digital platforms. Apple relies less directly on data, but still trades in it, receiving billions from Google in exchange for making it the default search engine on Apple devices. Furthermore, Apple may be headed in the direction of its Big Tech peers, as the share of its revenue from (data-driven) services - including its App Store and apps within it - increases. Nevertheless, competition between the "Big Tech" companies is still limited, although we expect it to intensify - partly due to the changing regulatory environment.

By divvying up the pie this way, Big Tech firms conspire to lock customers into the 'walled gardens' they have built. Alternatively, they can exploit the detailed knowledge they have gained, either by selling insight to advertisers or by taking part in the AdTech business themselves. For customers, there is a fine line between the convenience of customised offers and being locked in - and Big Tech know exactly how to walk it. This poses interesting and innovative dilemmas regarding regulation, as convenience and personalized service are welcomed by customers while restricting competition and innovation. So the question is: what should we do from a regulatory point of view?

The answer is not easy, as it requires a much more thorough analysis, in which we must weigh the advantages of large technology companies by limiting both the competition and the potential for subversive innovations that Big Tech prevents, often with aggressive acquisitions. And for that we need new tools. The problem is that the regulatory community, which has now realized both the extent of the risk and the inability of traditional tools to deal with it, has not yet undergone a radical restructuring. On the one hand, recent proposals to revise the regulatory environment are in the right direction. On the other hand, we need to delve deeper into the business models (ie, where companies make a profit) and the impact on the ecosystems of partner companies (multi-actor ecosystem), another, distinct concept of ecosystems

The best place to start is with Big Tech business models. With Chinese firms like Huawei, concern is often focused on how they could be gathering sensitive information about customers' actions - even though US-based Big Tech is already gathering far more and monetizing it. So, the real challenge, in our view, is to 'follow the money' and look what firms are able to do with the information they obtain. How do they gain power over customers or collaborators? How can they subvert the spirit of regulations, or even evade their scope?

As we assess the merits of proposed regulations, we also need to map their impact on both regulated firms and the collaborators within their ecosystems - and ask the hard questions. Big Tech's ability to collect information about customers, and their savvy in monetizing it, has obliterated much of the traditional media, undermining quality journalism and, ultimately, democracy. The fact that 70% of the digital ad spend in Europe goes to properties owned by Facebook and Google, as opposed to traditional media such as newspapers and magazines, has undermined the media sector.


In the critical months ahead, large publishers such as SpringerVerlag will defend the regulations on these grounds. However, other, smaller publishers, ad agencies and developers will defend Big Tech, because they have formed symbiotic relationships with it. That is why we need to reach a firm yet nuanced view on what the regulation is intended to achieve.



We should also examine how regulations will affect Big Tech. Two crucial details could make a difference here: first, the asymmetric enforcement between gatekeepers and others, meaning that key players are held to a higher standard, and second, the fact that enforcement won't be devolved to national regulatory agencies. Yet, based on many interviews and detailed research, we've concluded that several of the remedies under consideration will add friction, but without necessarily changing the game - like GDPR.

Barring the 'nuclear option' of a breakup, we expect Google to be affected most, then Facebook, and finally Apple. However, the new rules may affect more than cash flow. First, Big Tech will have to put great effort into designing compliant IT systems. This will hold back their expansion and growth - which regulators (understandably) want to slow down. It may hamper their innovation - but can facilitate the innovation of others and increase competition and reduce Big Tech's control over their ecosystems. Furthermore, if expansion into new areas such as healthcare becomes more difficult for Big Tech, it's hard to see how they will be able to sustain the growth rate implied in their current multiples. And if acquisitions are monitored more closely, with an eye to fostering competition, the firms may lose some of their allure for investors. Overall, the devil will be in the detail, and much depends on the vigour of implementation.

We expect significant pushback and debate in future months. Big Tech has geared up for the lobbying fight of its life. On the EU side, there is steely determination, partly for the right reasons. However, we believe there should be a far clearer separation between issues of regulation and customer dependency on one hand, and industrial policy on the other. Europe should set clear criteria that will apply to EU, US and Chinese firms alike, and consider how to regain its industrial might. It should not try, as the US did with China, to undermine its rivals' firms to gain strength. Rather, it should cultivate its own tech ecosystem based on more democratic, open structures, then enact policies to boost EU tech.



EU regulations can help nudge the tech world onto a more competitive trajectory. While we may lose some of the seamlessness of a tightly run ecosystem, we will gain by ensuring competition really is a click away- which is far from being the case today. We expect 2021 to be a year of intense debate. We must ensure that we understand Big Tech business models and multi-product ecosystem lock-ins, so as not to lose the forest for the trees

As far as our country is concerned, in the context of updating competition law, we should help in the effort to strengthen digital competition, and to reduce the risk of the prevalence of a few, almost exclusively globalized, such ecosystems. It will be useful for Greece, and the Competition Commission, to have regulatory pressure levers on the platforms, given that our country has a large number of partner companies (from small homeowners who work with AirBnB and Booking.com, as cooks and distributors / delivery), who contribute significantly to employment, and potentially to tax revenues. Greece must also enter the digital reality ready to stand up to competition so that new, innovative platforms can offer their services, and to ensure that we provide the protection that competition needs to thrive. The aim will be to protect innovation, and to prevent abuse. It is time for the Competition Commission to enter the Digital Vanguard.

Other countries, such as Germany, France, Belgium, and the Netherlands, have already introduced specific competition rules for ecosystems and platforms, which are complementary to the proposed European changes. Greece must also enter the digital reality ready to stand up to competition so that new, innovative platforms can offer their services, and to ensure that we provide the protection that competition needs to thrive. The aim will be to protect innovation, and to prevent abuse. Now is the time for the Competition Commission to enter the Digital Vanguard.





## E-Commerce in 2020: developments and Challenges:

**Dr. Katerina Fraidaki**

*President GRECA*

**Stelios Petridis**

*General Manager GRECA*



**Κατερίνα Φραιδάκη,**  
ΠΡΟΕΔΡΟΣ GRECA  
&  
**Στέλιος Πετρίδης,**  
ΓΕΝΙΚΟΣ ΔΙΕΥΘΥΝΤΗΣ GRECA

Greek e-Commerce Association (GRECA), represents the whole market of E-commerce and its services, consisting of more than 10.000 enterprises active in our country. GRECA has established the Code of Conduct. Today it has more than 500 members that represent 70% of total turnover in the market and is the official representative of the state, by engaging in dialogue with all institutions whose objective converges directly or indirectly to e-commerce.

Moreover, it has a European presence, as its representative participate to Ecommerce Europe and the European Organisation for the Digital Commerce sector. The actions of the Association include the trust mark of Greek e-shops, GR.EC.A Trustmark, as well as the organisation of the Ecommerce week. GR.EC.A's main objective is the mapping of the e-commerce market, at national level and the comparison of the Greece standards to European.

### E-Commerce in 2020

At the beginning of 2020 E-commerce in Greece increased by 30%. The unknown until then situation caused by COVID-19 (lockdown), led e-commerce to an increase of 171%, during 18<sup>th</sup> week of 2020. The increase in sales were also considerable during the «Black week» of 2020, during which we observed an increase in sales of 154% when compared to previous 8 weeks of the same year. The main points for year 2020 are:

- Increase in the number of on-line shops
- Increase in sales
- 120% increase in Greek e-shops' exports
- Increase in the number of consumers that trusted online for their purchases
- Increase in firms' investments to increase capacity to support e-commerce
- Notable increase in the number of recruitments to cover the need arising from the operation of online shops
- Increase in the investments of express mail services

### Future developments of the Sector

During the following period the introduction of all companies of the sector in development projects of NSRF is expected i.e. besides from online shops, also for logistics, call centers, express mail service etc.

Moreover, the entry of multinational enterprises (Amazon, Ebay, Alibaba) in our country is expected, but will also lead to decreasing national firms' turnover. For this reason it is important to find a way for Greek firms to enter (respectively) in these networks so that they can start selling their products in Europe and globally.

### **The Needs that Shape the Sector's Future**

E-commerce area is a relatively new area for our country and the increasing demand arising from the pandemic brought in the surface its “childhood diseases”. We consider that the following issues are basic issues for its further development:

- Need for education
- Increase in investments in express mail services
- Financial tools and projects for the recruitment and training of employees
- Financial tools and projects in order to cover the development and the set-up of online shops

However, beyond the actions that need to be taken for the sector's development and growth, we consider that obstacles exist, that undermine any business promising action. We briefly mention the following:

#### **a) Conditions that create unfair competition in Greek E-shops compared to on-line shops operating abroad**

Greek e-commerce is not competitive for the following three reasons:

- Increased VAT rate compared to European average
- Delivery cost from Greece to Europe (mainly) multiply higher than the delivery cost applying to the reverse route
- Advertising Cost, the imposition of a 2% contribution for EDOEAP creates uneven competition conditions between Greek and foreign online shops and contributes to the decrease of cross-border sales of goods and services, leading to the weakening of the digital economy in our country.

#### **b) Unfair Practices**

We consider that the inspections in online shops should be intensified to stop unfair practices that lead to loss of public revenues, tarnish the image of the sector in consumers' eyes and create conditions of unfair competition.

Moreover, attention should be paid to the “grid” of companies (carousel) that operates in an orderly way and over time, by establishing legal entities in which natural persons from our country or abroad serve as managers or legal representatives, that are extremely difficult to locate, and have the characteristics of “missing merchant”, e.g. sales are completed on line, but taxes are offset and are not paid to the government, by the trick of fake invoices of expenses issued by suppliers that do not exist.



## Room with a view: “Competition Law challenges in 2030”



**Margarida Matos Rosa,**  
ΠΡΟΕΔΡΟΣ ΤΗΣ ΠΟΡΤΟΓΑΛΙΚΗΣ  
ΑΡΧΗΣ ΑΝΤΑΓΩΝΙΣΜΟΥ

PRESIDENT OF THE  
PORTUGUESE COMPETITION  
AUTHORITY

Η ψηφιοποίηση υπήρξε επιταχυντής της παγκοσμιοποίησης τις τελευταίες δύο δεκαετίες. Έχει οδηγήσει στην εμφάνιση νέων επιχειρηματικών μοντέλων και σημαντικών αλλαγών στους παραδοσιακούς τομείς.

Παράλληλα με αυτήν την τάση, ένα αποδιοργανωτικό γεγονός επιτάχυνε την ψηφιοποίηση το 2020. Οι δραματικές συνθήκες του περασμένου έτους απαιτούσαν σημαντική κοινωνική απόσταση και αυτό ενίσχυσε αποφασιστικά το ηλεκτρονικό εμπόριο.

Η λιανική διανομή τροφίμων αλλά και άλλοι παραδοσιακοί εμπορικοί τομείς που βασίζονταν στην αυτοπρόσωπη παρουσία, σε ορισμένες περιπτώσεις, σημείωσαν διπλή αύξηση στις διαδικτυακές αγορές σε λίγους μόνο μήνες. Αυτή η τάση θα συνεχιστεί με ταχύ ρυθμό το 2021 και έπειτα. Όχι μόνο υπάρχει μεταβίβαση των πωλήσεων των επιχειρήσεων από φυσικά καταστήματα προς το ψηφιακό κανάλι, αλλά και η σχέση μεταξύ παραγωγών και τελικών πελατών μπορεί να εξελιχθεί σε βάρος του διανομέα.

Ορισμένοι μεσάζοντες, είτε φυσικά καταστήματα είτε όχι, θεωρούνται πλέον περιττοί, καθώς μια άμεση διαδικτυακή σχέση πωλήσεων εμφανίζεται έντονα μεταξύ των πελατών και των αγαπημένων αγαθών και υπηρεσιών τους.

Με τέτοιες αξιολογούμενες εξελίξεις, ο κίνδυνος καταχρηστικών πρακτικών και δημιουργίας αθέμιτων συμπράξεων είναι πιθανό να μεταφερθεί εν μέρει στο ψηφιακό περιβάλλον. Συνεπώς, το μέλημα των Αρχών επιβολής των κανόνων του ανταγωνισμού θα είναι το να προστατεύσουν και να ενισχύσουν την ανταγωνιστική δυναμική στον ψηφιακό χώρο.

Το «AdC», για παράδειγμα, διατηρεί ως προτεραιότητα την έρευνα ισχυρών ενδείξεων αποκλεισμού της αγοράς για νέους ανταγωνιστές μέσω στρατηγικών αποκλεισμού. Η ανησυχία αυτή συνεπαγόταν την εσωτερική ανάπτυξη ικανοτήτων κατά το έτος 2020, η οποία θα ενισχυθεί τα επόμενα χρόνια.

Μια διατμηματική ψηφιακή ομάδα εργασίας, η οποία παραμένει πλήρως σε ισχύ το 2021, συγκεντρώνει την καλύτερη τεχνογνωσία των τμημάτων που ασχολούνται με τις αντι-ανταγωνιστικές πρακτικές, τις συγχωνεύσεις και τις μελέτες αγοράς. Με μια τόσο γρήγορη αλλαγή που αναμένεται κατά τη διάρκεια της δεκαετίας, οι Αρχές Ανταγωνισμού θα πρέπει αναμφισβήτητα να υποστηρίξουν –και να ενισχύσουν– τον ανταγωνισμό στην ψηφιακή οικονομία, έτσι ώστε οι ευκαιρίες και τα οφέλη για την κοινωνία να μπορούν να υλοποιηθούν με τον κατάλληλο τρόπο.

Digitization has been an accelerator of globalization in the past two decades. It has led to the emergence of new business models and significant changes in traditional sectors. Alongside this trend, a disruptive event accelerated digitization in 2020.

The dramatic circumstances of the past year required significant social distancing and this has resolutely boosted e-commerce. Retail food distribution and other traditionally in-person commerce saw, in some cases, a two-fold increase in online shopping in only a few months. This trend will continue fast-paced throughout 2021 and beyond. Not only is there a transfer of firms' sales from bricks-and-mortar to the digital channel, but also the relationship between producers and their end-clients may evolve to the detriment of the distributor. Some intermediaries, whether bricks-and-mortar or not, are now seen as unnecessary, as a direct online sales relationship emerges strongly between clients and their favourite goods and services.

With such notable developments, the risk of abuse and collusion has all the likelihood of being partly shifted to the digital environment. It will thus be the enforcers' concern to protect and enhance competitive dynamics in the digital space.

The AdC, for example, is keeping as a priority the investigation of strong signs of market foreclosure to new players through exclusionary strategies. That concern entailed internal capacity-building in 2020 which will grow stronger throughout the coming years.

A cross-departmental digital task force, which remains fully in force in 2021, brings together the best expertise of the anticompetitive behaviour, mergers and market studies departments. With such fast paced change expected over the decade, competition authorities will undeniably have to advocate –and enforce- competition in the digital economy so that opportunities and benefits to society can appropriately materialize.







**Andreas Mundt,**  
ΠΡΟΕΔΡΟΣ ΤΗΣ ΓΕΡΜΑΝΙΚΗΣ  
ΑΡΧΗΣ ΑΝΤΑΓΩΝΙΣΜΟΥ

PRESIDENT OF THE  
BUNDESKARTELLAMT

Η ψηφιοποίηση φέρνει καινοτομία, ανάπτυξη και ευκαιρίες για όλους. Ωστόσο, συνεπάγεται επίσης πλεονεκτήματα και μειονεκτήματα. Για να διασφαλιστεί ο θεμιτός ανταγωνισμός στις ψηφιακές αγορές, οι αρχές ανταγωνισμού πρέπει να επαγρυπνούν και να συνεχίσουν τις δραστηριότητες επιβολής των κανόνων του ανταγωνισμού, καθώς και να προωθήσουν την ευαισθητοποίηση σε θέματα και πολιτικές ανταγωνισμού.

Με βάση τα παραπάνω, η ψηφιακή οικονομία παραμένει η κορυφαία προτεραιότητα του «Bundeskartellamt». Έχουμε ήδη πραγματοποιήσει επιτυχώς πολλές νομικές διαδικασίες ορόσημα, οι οποίες αφορούν την ψηφιακή οικονομία εφαρμόζοντας αποφασιστικά τα υπάρχοντα εργαλεία ανταγωνισμού. Ταυτόχρονα, τα μέσα μας πρέπει να προσαρμόζονται συνεχώς στο διαρκώς μεταβαλλόμενο περιβάλλον για να διατηρούν τις αγορές ανοικτές και ανταγωνιστικές, ιδίως εκείνες που μετασχηματίζονται μέσω της διαδικασίας της ψηφιοποίησης.

Χρειαζόμαστε επίσης νέους τρόπους για την αντιμετώπιση των προβλημάτων που προκαλεί η ψηφιοποίηση. Ένα μέρος της απάντησης θα μπορούσε να είναι πρόσθετα μέσα στο πνεύμα της νομοθεσίας περί ανταγωνισμού. Η 10η τροποποίηση του γερμανικού νόμου περί ανταγωνισμού θα επιτρέψει στο «Bundeskartellamt» να αντιμετωπίσει αποτελεσματικά τις προκλήσεις που εγείρουν οι εταιρείες ύψιστης σημασίας για τον ανταγωνισμό στις διάφορες αγορές. Αυτή η νομοθετική διαδικασία έχει ήδη προχωρήσει πολύ και ετοιμαζόμαστε να εφαρμόσουμε το νέο αυτό μέσο. Εκτός από τις διαδικασίες και τα εννοιολογικά θεμέλια, το «Bundeskartellamt» συμβάλλει επίσης με την τεχνογνωσία του σε εθνικές και διεθνείς συζητήσεις για επείγοντα θέματα πολιτικής ανταγωνισμού που εγείρει η ψηφιακή οικονομία.

Αναφορικά με το μέλλον, ο αποφασιστικός παράγοντας είναι ότι οι παρεμβάσεις μας θα πρέπει να έχουν επαρκή επίδραση στις αγορές. Τα διορθωτικά μέτρα είναι επομένως βασική παράμετρος για την αξιολόγηση της αποτελεσματικότητας της εφαρμογής των κανόνων του ανταγωνισμού. Ταυτόχρονα, πρέπει να θυμόμαστε ότι ο νόμος περί ανταγωνισμού δεν είναι πανάκεια και δεν μπορεί να επιλύσει όλα τα προβλήματα που προκύπτουν από την ψηφιοποίηση.



Digitalisation brings innovation, growth and opportunities for all. However, it also entails both advantages and disadvantages. To ensure fair competition in digital markets, competition authorities must stay vigilant and continue their antitrust enforcement activities as well as promote competition advocacy.

In light of the above, the digital economy remains the Bundeskartellamt's top priority. We have already successfully conducted numerous landmark proceedings involving the digital economy by resolutely applying existing competition tools. At the same time, our instruments need to be constantly attuned to the ever changing environment to keep markets open and competitive, in particular those markets that are being transformed by digitalisation. We also need new ways to tackle the problems that digitalisation causes. One part of the answer could be additional instruments in the spirit of competition law. The 10th amendment to the German Competition Act will enable the Bundeskartellamt to effectively address challenges raised by companies of paramount significance for competition across markets. This legislative process is already well advanced and we are getting ready to apply this new instrument. Apart from its proceedings and conceptual groundwork, the Bundeskartellamt also contributes its expertise in national and international discussions of urgent competition policy issues raised by the digital economy.

With a view to the future, the decisive factor is that our interventions must have sufficient impact on the markets. Remedies are therefore a key parameter for assessing the effectiveness of antitrust enforcement. At the same time, we must remember that competition law is no panacea and cannot resolve all the problems emerging from digitalisation.



### Martijn Snoep

ΠΡΟΕΔΡΟΣ ΤΗΣ ΟΛΛΑΝΔΙΚΗΣ  
ΑΡΧΗΣ ΓΙΑ ΤΟΥΣ ΚΑΤΑΝΑΛΩΤΕΣ  
ΚΑΙ ΤΙΣ ΑΓΟΡΕΣ

CHAIRMAN OF THE  
NETHERLANDS AUTHORITY  
FOR CONSUMERS AND  
MARKETS (ACM)

Με την Πράξη για τις Ψηφιακές Αγορές και την Πράξη για τις Ψηφιακές Υπηρεσίες, η Ευρωπαϊκή Επιτροπή και οι Αρχές Ανταγωνισμού των Κρατών Μελών διαθέτουν επαρκή *ex ante* και *ex post* νομικά εργαλεία για να διατηρήσουν τις ευρωπαϊκές αγορές ανοιχτές και ανταγωνιστικές κατά την προσεχή ψηφιακή δεκαετία. Ωστόσο, θα υπάρξουν πολλές προκλήσεις, με τις πιο πιεστικές αυτές του εντοπισμού και της δίωξης. Επιτρέψτε μου να σας εξηγήσω:

Τα καρτέλ αποτέλεσαν το νούμερο ένα σημείο στη λίστα προτεραιότητας επιβολής του ανταγωνισμού μέχρι τις αρχές του αιώνα. Η εισαγωγή και η επέκταση των προγραμμάτων επιείκειας προώθησαν τον εντοπισμό και τη δίωξη των καρτέλ. Τα κυριότερα πρόστιμα και η γενική δυσαρέσκεια του κοινού εναντίον μυστικών καρτέλ καθόρισαν την επιτυχία των αρχών. Οι συνεργαζόμενοι αιτούντες επιείκεια κατέστησαν δύσκολο για άλλες εταιρείες να αμφισβητήσουν τα πραγματικά περιστατικά.

Έως το 2030 θα ανατρέξουμε στην περίοδο 2000 – 2020 ως την ακμή της επιβολής της νομοθεσίας κατά των καρτέλ. Τα καρτέλ είναι απίθανο να παραμείνουν η νούμερο ένα προτεραιότητα για το υπόλοιπο αυτής της δεκαετίας. Το πιο πιθανό είναι για τις υποθέσεις κατάχρησης δεσπόζουσας θέσης από τις «BigTech» εταιρείες οι οποίες θα απασχολήσουν τα πρωτοσέλιδα. Οι υποθέσεις αυτές – βάσει είτε νέων *ex ante* είτε παλαιών *ex post* εργαλείων – θα προσφέρουν πολύ περισσότερες προκλήσεις για τον εντοπισμό και τη δίωξη από ό, τι τα καρτέλ στο παρελθόν.

Δεν υπάρχουν αιτούντες επιείκειας για την παροχή εσωτερικών πληροφοριών σχετικά με τη λειτουργία της συμπεριφοράς που διερευνήθηκε. Οι καταγγέλλοντες, ιδίως οι μικρότεροι, δεν έχουν τους ίδιους πόρους και κίνητρα για να συνεργαστούν σε μια έρευνα ή να είναι απρόθυμοι λόγω του φόβου αντιποίνων. Αν και η κοινή γνώμη δεν βλέπει ευνοϊκά τις εταιρείες «Big Tech», ωστόσο, οι περισσότεροι καταναλωτές είναι ευχαριστημένοι από τις υπηρεσίες τους. Συνεπώς, η βλάβη των καταναλωτών για φερόμενη καταχρηστική συμπεριφορά θα είναι πιο δύσκολο να εξηγηθεί στο ευρύ κοινό. Επιπλέον, οι διωκόμενες εταιρείες θα είναι πρόθυμες και ικανές να αμφισβητήσουν κάθε λεπτομέρεια των πραγματικών και νομικών ισχυρισμών.

Δεν υπάρχει καμία «ασημένια σφαίρα» για την αντιμετώπιση όλων αυτών των προβλημάτων. Το *ex ante* εργαλείο που θεσπίστηκε πρόσφατα αναμένεται να προσφέρει κάποια μικρή βοήθεια, αλλά θα απαιτηθεί επίσης ένα ολόκληρο σύνολο οργανωτικών αλλαγών, όπως η ανάπτυξη νέων δεξιοτήτων και πρακτικών για τη συνεργασία με τωρινούς ή πρώην υπαλλήλους πληροφοριοδότες, καθώς και με ανώνυμους καταγγέλλοντες από τις εταιρείες. Οι οικονομολόγοι θα πρέπει να αναπτύξουν νέες και εξηγήσιμες θεωρίες βλάβης με μια ισχυρή εμπειρική βάση. Οι επιστήμονες

δεδομένων θα πρέπει να είναι σε θέση να εντοπίζουν και να περιγράφουν τη λειτουργία των αλγορίθμων με τρόπο που μπορεί να παρουσιάζεται ως αποδεικτικό στοιχείο στο δικαστήριο. Και οι νομικές υπηρεσίες των Αρχών πρέπει να είναι προετοιμασμένες για μακροχρόνιες και περίπλοκες νομικές μάχες εναντίον τρομερών αντιπάλων με βαθιές οικονομικές τσέπες.

Αυτό αναμφίβολα θα αλλάξει τον χαρακτήρα της δημόσιας επιβολής του δικαίου του ανταγωνισμού και των θεσμών του, αλλά οι εξελίξεις κατά τις προηγούμενες δεκαετίες δείχνουν ότι οι Αρχές Ανταγωνισμού είναι σε θέση να εξελιχθούν για να αντιμετωπίσουν τις προκλήσεις του 2030 και έπειτα.



With the Digital Markets Act and the Digital Services Act, the European Commission and the Member States' competition authorities should have sufficient ex ante and ex post legal tools to keep European markets open and competitive during the upcoming digital decade. There will be many challenges though. One of the most pressing is going to be detection and prosecution in practice. Let me explain.

Cartels hit the number one spot on the competition enforcement priority list by the turn of the century. The introduction and expansion of leniency programs propelled cartel detection and prosecution. Headline worthy fines and a general public resentment against secretive price-fixing cartels determined the authorities' success. Cooperative leniency applicants made it hard for other companies to challenge the underlying facts.

By 2030 we will look back at the period 2000-2020 as the heydays of cartel enforcement. Cartels are unlikely to remain the number one priority for the remainder of this decade. It's likely going to be abuse of dominance by Big Tech that will determine headlines. These cases – on the basis of either new ex ante or old ex post tools - will provide far more challenges for detection and prosecution than cartels did in the past. There are no leniency applicants to provide inside information on the workings of the investigated behaviour. Complainants, particular the smaller ones, do not have the same resources and incentives to cooperate with an investigation. They can also be reluctant due to fear for retaliation. Although Big Tech is not viewed upon favourably in the public opinion, most consumers are by and large happy with their services. The consumer harm of alleged abusive behaviour will be harder to explain to the general public. And the prosecuted companies will be willing and able to challenge every single detail of the factual and legal allegations.

There is no one silver bullet to address all these issues. The newly introduced ex ante tool will help a bit, but the issues will also require a whole set of organizational changes, like the development of new skills and practices to work with current or former employee whistle blowers and with anonymous company complainants. Economists will have to develop new explainable theories of harm with a strong empirical foundation. Data scientists will need to be able to detect and describe the workings of algorithms in a way that can be presented as evidence in court. And the authorities' legal services need to be prepared for long-drawn-out and sophisticated legal fights against formidable opponents with deep financial pockets.

This will no doubt change the character of public competition enforcement and of its institutions, but the developments during the previous decades demonstrate that competition authorities are able to evolve to face the challenges of 2030 and beyond.