Concurrences
REVUE DES DROITS DE LA CONCURRENCE | COMPETITION LAW REVIEW

Disrupting the traditional value chain: How online platforms challenge competition rules on vertical restraints and RPM

Legal practices | Concurrences N° 2-2019
www.concurrences.com

Charlotte Breuvart
cbreuvart@jonesday.com
Partner
Jones Day, Brussels

Yannis Schlüter
yschluter@jonesday.com
Law Clerk
Jones Day, Brussels

INSTITUT de droit de la concurrence

Charlotte Breuvart*
cbreuvart@jonesday.com
Partner Jones Day, Brussels

Yannis Schlüter
yschluter@jonesday.com
Law Clerk Jones Day, Brussels

Disrupting the traditional value chain: How online platforms challenge competition rules on vertical restraints and RPM

ABSTRACT

According to a recent Eurobarometer survey, almost half of SMEs in the EU use online marketplaces to sell their products or services. At the same time, many merchants report to have experienced resale price restrictions when selling online. Since online RPM is a widespread concern in online sales, and e-commerce platforms are ever more important in that area, a relevant question is whether and how vertical restraints and resale price maintenance could be implemented not only through online platforms but also by platforms themselves. This question is challenging due to the unclear position that online platforms occupy in the traditional value chain (and their potential role as agents), and the resulting difficulty in applying rules on vertical restraints to them. This article focuses on the ability and incentive of the different types of online platforms to restrict resale prices. The incentives of the different platforms in engaging in such conduct greatly differ, with the so-called "hybrid" platforms carrying the most important risks in that respect due to the inherent conflict of interests resulting from their dual role.

Selon une enquête Eurobaromètre récente, près de la moitié des PME de l'UE utilisent les plateformes de commerce électronique pour vendre leurs produits ou leurs services. Dans le même temps, de nombreuses entreprises rapportent avoir été confrontées à des restrictions de prix de revente lorsqu'elles vendent en ligne. Les restrictions apportées à liberté de fixer les prix de revente étant une préoccupation largement répandue dans les ventes en ligne et les plateformes de commerce électronique étant de plus en plus importantes dans ce domaine, il convient de se demander si et comment les restrictions verticales et la fixation des prix de revente peuvent être mis en œuvre non seulement par le biais de plateformes en ligne, mais également par les plateformes elles-mêmes. Cette question est complexe en raison de la position incertaine qu'occupent les plateformes en ligne dans la chaîne de valeur traditionnelle (et de leur rôle potentiel en tant qu'agents) et de la difficulté qui en résulte pour appliquer les règles relatives aux restrictions verticales auxdites plateformes. Cet article porte en particulier sur l'incitation et la capacité qu'ont les différents types de plateformes en ligne à fixer les prix de revente. Les incitations des différentes plateformes à adopter un tel comportement diffèrent considérablement, les plateformes dites «hybrides» comportant les risques les plus importants à cet égard en raison du conflit d'intérêts inhérent à leur rôle dual.

* The views and opinions set forth herein are the personal views or opinions of the authors; they do not necessarily reflect views or opinions of the law firm with which they are associated.

Introduction

1. Definition

1. In the EU, platforms have been defined as "*software-based facilities offering two- or even multi-sided markets where providers and users of content, goods and services can meet*."[1] The definitions in other EU Member States are quite similar. For example, in France, a platform is defined as:

> "*An online public communications service that relies on:*
>
> *1. Ranking or referencing, by means of computer algorithms, of content, goods or services that are proposed or put online by third parties.*
>
> *2. Or the putting into contact of several parties with regards to the sale of a good, the provision of a service or the exchange or sharing of content, a good, or a service.*"[2]

3. Whatever the definition, the main characteristic of a platform is that it brings providers/merchants together with users/consumers. By definition, platforms operate in at least two-sided markets. They connect two sides of a

1 European Commission Staff Working Document, A Digital Single Market Strategy for Europe: Analysis and Evidence, SWD(2015) 100, p. 52

2 Free translation of Article L.111-7 I of the French Consumer Code: "*Est qualifiée d'opérateur de plateforme en ligne toute personne physique ou morale proposant, à titre professionnel, de manière rémunérée ou non, un service de communication au public en ligne reposant sur : 1° Le classement ou le référencement, au moyen d'algorithmes informatiques, de contenus, de biens ou de services proposés ou mis en ligne par des tiers ; 2° Ou la mise en relation de plusieurs parties en vue de la vente d'un bien, de la fourniture d'un service ou de l'échange ou du partage d'un contenu, d'un bien ou d'un service.*"

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

market and a development on one side has an effect on the other side. Therefore, one side of a platform cannot be examined in isolation.

4. For the purpose of this article, we consider a merchant to be any party that sells products or services through a platform, regardless of whether this party is a manufacturer, wholesaler or retailer. A consumer is anyone who uses or buys the goods or services that are offered by the merchants.

2. Types of platforms

5. There are many different types of platforms. In 2015, the European Commission ("the Commission") identified the following types of platforms in a public consultation:[3]

- online marketplaces (Amazon, eBay, Allegro, Booking.com);
- collaborative or "sharing" economy platforms (Uber, Airbnb, TaskRabbit, BlaBlaCar);
- communication platforms (Skype, WhatsApp);
- social networks (Facebook, LinkedIn, Twitter);
- search engines and specialized search tools (Google Search, TripAdvisor, Twenga, Yelp);
- maps (Google Maps, Bing Maps);
- news aggregators (Google News);
- music platforms (Deezer, Spotify);
- video sharing platforms (YouTube, Dailymotion);
- payment systems (PayPal, Apple Pay);
- app stores (Google Play, Apple App Store).

6. These platforms offer a wide variety of services. For competition law purposes, the service provided matters less than how the platform works and operates. In this respect, one of the main distinctions that can be made between platforms is between **transaction** and **non-transaction** platforms. In the US, the Supreme Court has recently stated in *Amex* that a two-sided transaction platform has three characteristics: (ii) it facilitates simultaneous transactions between participants, (ii) it cannot sell transaction facilities to either side of the market separately; and (iii) it must find the balance of pricing which most encourages the transaction on both sides to optimize sales.[4]

For analyzing vertical restraints and RPM, the following distinctions could be made between types of platforms:

- **Platforms that provide a service for free on one side of the market and generate revenue by selling advertisement space on the other side of the market.** A variation on this model is the "freemium" model, where platforms offer an improved (or "premium") version of the same service (i.e., without advertisements) for a fee. Social networks, music platforms, video sharing platforms, and search engines are examples of this type of platform.
- **Platforms that connect the buyers and sellers of a good or service, but do not actively set prices and do not sell any of their own products.** These platforms are pure intermediaries. Examples include Airbnb, Booking.com, and eBay.
- **Platforms that connect the buyers and sellers of a service and also actively fix, or at least recommend, the prices that sellers offer to buyers.** Examples of this type of platforms include BlaBlaCar, which recommends prices to merchants, as well as Uber, which unilaterally fixes prices without input from drivers.
- **Platforms that connect the buyers and sellers of goods and also sell their own goods on their platforms, but do not actively fix the prices offered on their platforms (other than the prices of their own products).** These platforms have dual roles as both intermediaries and online merchants. Examples include Amazon and app stores.

3. Potential anticompetitive harm of platforms and the issue of RPM

7. With the rapid expansion of online platforms, the application of traditional competition law concepts to the "digital economy" is becoming increasingly important. Since e-commerce platforms are an important channel for retailers to sell their products, it is imperative to ensure that no anticompetitive conduct occurs at the platform level.

8. The topic of resale price maintenance ("RPM") is of particular interest. Indeed, during the European Commission's investigation into the e-commerce sector, 40% of merchants that participated in the inquiry stated that they had experienced some form of pricing restrictions or recommendations when selling goods on online platforms.[5] Minimum RPM may have the most potential for harm, though it may, as acknowledged by the US Supreme Court in *Leegin*, lead to pro-competitive

3 European Commission, Public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy (September 2015), p. 5 (available at: https://ec.europa.eu/digital-single-market/en/news/public-consultation-regulatory-environment-platforms-online-intermediaries-data-and-cloud).

4 *Ohio v. American Express Co.*, No. 16-1454, p. 1.

5 Report from the Commission to the Council and the European Parliament: Final report on the E-commerce Sector Inquiry, SWD(2017) 154 final, 10.5.2017, p. 9 (available at: http://ec.europa.eu/competition/antitrust/sector_inquiry_final_report_en.pdf).

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

benefits. Harm can take place in various forms. It can be explicit, such as a refusal to supply when a certain price is undercut, or more implicit, such as an exclusion from a warranty program when recommended prices are not respected. While minimum prices are prohibited in the EU and some US jurisdictions, maximum and recommended prices are generally accepted as long as they do not lead to de facto fixed prices.[6]

9. The prohibition of RPM by traditional manufacturers or wholesalers is well-established and applies to online sales on platforms as much as it does to offline sales.[7] Other anticompetitive conduct taking place on platforms has also been sanctioned. In one widely reported case, merchants using the e-commerce platform Amazon fixed the prices of posters by using algorithms to match each other's prices (*Amazon Posters* case).[8] Even though this type of RPM and price fixing takes place online, it does not involve anticompetitive conduct by the platform, only through the platform.

10. The question that this article seeks to answer is whether anticompetitive conduct, especially RPM, could not only occur through the platforms but also emanate from the platforms. This topic is underreported, with most commentators focusing on the role that platforms can play in facilitating or enabling anticompetitive behavior rather than on the role that platforms might play in actually putting this conduct in place. Therefore, this article will seek to answer the question of whether platforms have the ability and incentive to restrict competition by engaging in RPM.

11. The first part of this article will consider the need to adapt the analytical framework used in competition law before it can be applied to online platforms. The second part will consider whether online platforms have the ability and incentives to restrict resale prices. The third part will consider whether there may be areas outside of RPM in which platforms could restrict competition under Article 101 TFEU. The final part will consider the EU draft regulatory framework on fairness and transparency of online platforms' trading practices and whether that framework could solve some of the highlighted competitive issues.

I. The development of a new analytical framework

12. Digital platforms have been developing rapidly in the past few years. They tend to be characterized by high market shares in fast moving markets and by strong direct and indirect network effects and economies of scale through a.o. the accumulation of data.

Digital platforms have disrupted traditional business models, and traditional antitrust tools are sometimes ineffective for assessing multi-sided platforms. This section of the article will consider the difficulties surrounding four areas: market definition, market power, agency agreements, and the traditional value chain model.

1. Market definition

13. Platforms often offer free services, or adopt a freemium model, which makes traditional market definition tools ineffective or at least difficult to implement. For instance, the traditional SSNIP test does not work if the base price is zero, because an increase of 5–10% remains 0. Raising the price by an absolute amount (i.e., not in percentages but by, for example, €5–10) would also be ineffective. Imposing a price on a service that was previously free would mean that the service would lose a considerable amount of customers, who would turn to competitors that remain free, or simply stop using the service altogether.[9] This could lead to excessively broad market definitions.

14. Also, by definition, online platforms operate in two-sided markets, which means that they have to cater to two types of customers (e.g., advertisers and users or merchants and customers). The two sides of a market cannot be viewed in isolation since one side of the market influences the other side of the market. One cannot simply look at one side of the market to establish anticompetitive effects, as was recently decided by the US Supreme Court in *Amex*, which is in line with EU case law.[10] Market definitions may need to comprise different services that are not interchangeable due to their two-sided nature.

---

6 European Commission Guidelines on Vertical Restraints, 2010/C 130/01, para. 227.

7 *See* for instance European Commission cases AT.40465 *Asus*, AT.40469 *Denon & Marantz*, AT 40181 *Philips* and AT.40182 *Pioneer*.

8 *See* Press Release of the Department of Justice dated 6 April 2015, Former E-Commerce Executive Charged with Price Fixing in the Antitrust Division's First Online Marketplace Prosecution, Press Release Number 15-421.

9 D. Mandrescu, Competition Law and Online Platforms – Reflections on the market definition, March 2018 (available at: http://www.sipotra.it/wp-content/uploads/2018/04/Competition-Law-and-Online-Platforms.-Reflections-on-the-market-definition.pdf).

10 Case C-67/13 P *Groupement des cartes bancaires v. Commission*, para. 79. *See also* CPI Talks with Thomas Kramler, 20 September 2018: "(…) *the EU courts have held that in two-sided markets, where the customers in those markets are not substantially the same, the restrictive effects of a measure in one market cannot be compensated by advantages for the other side, if the measure does not have any appreciable objective advantages for the first side (see C-382/12 P,* MasterCard, *para. 242). In other words both sides need to benefit from the efficiencies of the measure in order to make it compatible with EU competition law*" (available at: https://www.competitionpolicyinternational.com/wp-content/uploads/2018/09/CPI-Talks-Kramler.pdf).

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

2. Market power

15. Difficulties also arise when assessing the market power of a company. For instance, "multi-homing" exists when consumers are active on or subscribed to two or more competing platforms. In a market characterized by multi-homing, consumers are willing and able to switch platforms or use several platforms in parallel. This means that a new entrant will not have to convince consumers to abandon the platform they are currently using, but can expect consumers to use their service as a complement. This makes it easier to enter the market.[11]

16. In addition, most online platforms operate in dynamic markets where new entrants and existing companies tend to have unstable market positions (even if some platforms benefit from a first mover's established market position). Prices cannot be introduced or raised comfortably when most services are free because a paid service could quickly lose its market position. Due to direct and indirect network effects, platforms grow faster as they become bigger. Network effects are a normal phenomenon and should not be confused with anticompetitive behavior.

17. Data also plays an important role. As data becomes more valuable, it will not always be possible to measure the market power of a platform by its market share. The European Commission held in its *Apple/Shazam* decision that replicability of the data will be an indicator of market power. The combined market power of two platforms will depend on the way a company could make use of combined data and whether the combined data is replicable by other platforms.[12]

3. Agency agreements

18. Agency agreements are another area where platforms are challenging traditional analytical tools. Traditionally, retailers can be either independent or a pure agent of the manufacturer. However, platforms do not fit into either of these categories neatly since they have the characteristics of both agents and independent retailers at the same time. On one hand, they often do not possess the goods and are not a party to the sales contract, which is typical for agents. On the other hand, they have many "principals" and function as a de facto counterparty to any consumer.

19. An agency agreement vests an agent with the power to conclude contracts on behalf of another person (the principal).[13] Under EU competition law, in agency agreements, the agent and principal form part of the same group. Therefore, obligations imposed by the principal on the agent concerning selling conditions (including prices) are not caught by EU competition law.[14] When assessing agency agreements, two things play a role: property and risk.[15] An agency agreement can only be genuine if the principal remains owner of the good and bears all financial and commercial risk. For e-commerce platforms, an agency agreement could be argued to exist in case the merchant retains ownership of the goods and the platform does not bear real risk (because it is not storing the goods, it has made no investment in relation to the goods or services concerned, and is not a party to the contract). However, if the platform stores goods or makes market-specific/sunk investments, then the e-commerce platform could no longer be considered an agent.

20. While online e-commerce platforms could, at least in some cases, be considered prima facie agents, there is also an argument against that view. While the European Commission's Guidelines on Vertical Restraints state that agents can act for several principals,[16] the Court of Justice has held that agency agreements are not considered genuine if the agent is active for a very large number of competing principals.[17] The Court of Justice reasons that because conflicts between the demands of different competing principals are inevitable, the agent will have to make its own decisions regarding which principal's instruction to prioritize over others.[18] This makes the application of the agency agreement "exception" to online platforms unclear. In addition, in the digital era, the above-mentioned economic risk criteria is blurred due to electronic contracting and delivery. Finally, agency agreements would only apply in situations where a merchant fixes the resale conditions under which a platform could sell certain goods or, in other words, where the resale price restrictions emanate from the merchant. It would not cover situations where a platform enters into a form of RPM with merchants (even though this situation would be unlikely in the first place, as stated below).

4. The traditional value chain model

21. A final area in which platforms do not fit into the typical model used by competition law is the typical perception of the value chain. This is a very important topic, since it determines whether a restraint is vertical or horizontal and whether it is a restraint at all. When the rules on vertical restraints were drafted, the typical value chain was considered to consist of the manufacturer, wholesaler, retailer, and consumer. Vertical restrictions could take place along this value chain.

11 OECD, Quality considerations in the zero-price economy – Note by Germany, Joint meeting between the Competition Committee and the Committee on Consumer Policy on 28 November 2018, DAF/COMP/WD(2018)130, para. 15.

12 Commission Decision in Case M.8788 *Apple/Shazam*, 6 September 2018, para. 179.

13 European Commission Guidelines on Vertical Restraints, 2010/C 130/01, para. 12.

14 Ibid., para. 18.

15 Ibid., para. 13–16.

16 Ibid., para. 13.

17 Case C-311/85, *VVR v. Sociale Dienst*, para. 20.

18 M. Bennett, Online Platforms: Retailers, Genuine Agents or None of the Above?, p. 7 (available at: https://www.competitionpolicyinternational.com/online-platforms-retailers-genuine-agents-or-none-of-the-above).

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

22. Platforms do not fit neatly in this model. Technology is transforming the relationships. Most platforms function as intermediaries, meaning that on one side there are manufacturers, wholesalers, or retailers offering their goods and services, and on the other there are consumers buying these goods and services. However, because those platforms are not actually active in the resale process, it is difficult to place them at a certain level in the value chain of a product since it is not clear if they are "higher up" the value chain than retailers or "further down." Applying the terminology for vertical restraints to these platforms is therefore difficult. To take the example of RPM, should a platform be considered to be in a vertical relationship with a merchant? If a platform imposes a price on a merchant, is this considered RPM or price fixing or neither? If there is no vertical relationship between the parties, then there can be no RPM. At the same time, the platform often does not sell any of its own products to consumers, so it cannot be involved in horizontal price fixing with the merchants either. This makes it imperative to look at the precise functioning of the platform to assess whether a certain restraint should be considered to have an effect equivalent to RPM.

23. Typically, RPM is imposed by manufacturers on retailers. A platform rarely qualifies as a manufacturer, but just because a platform is not a manufacturer for the purpose of EU competition law should not make it possible for a platform to impose practices that de facto lead to a restriction of the prices the final consumer will pay.

24. Keeping the above in mind, this article will consider the application of competition law in general, and the rules on RPM specifically, as they relate to the behavior of platforms (and not through platforms). The aim is to consider if platforms' practices produce anticompetitive effects similar to those in the offline world, and whether that would mean competition rules should be applied to them.

II. Online platforms and RPM: Not a real problem?

25. This part of the paper will evaluate whether platforms could be involved in imposing RPM or, at least, practices equivalent to it. It will consider whether RPM or equivalent practices by platforms could be an issue, or whether RPM is mostly something that is done through platforms.

1. Online platforms offering free services to consumers

26. Many platforms offer their services to consumers for free and do not sell any products to consumers. Facebook and YouTube are famous examples of these types of services. At most, they offer a premium version of their services in exchange for a fee (e.g., Spotify or LinkedIn). Considering that these platforms do not sell any third-party products and do not sell their own products to third parties for resale, there is no opportunity for them to restrict the resale price of any products. They cannot impose any restriction on retailers, since they are not related to the retailers in any way. Consequently, the risk of RPM, or of any restriction equivalent to it, on such platforms is nonexistent.

2. Online platforms connecting merchants and consumers

27. Another common type of platform connects merchants and consumers and acts as an intermediary in the transactions entered into by both sides. Examples of platforms that are pure intermediaries are eBay and Airbnb. They connect merchants and consumers and take a commission for their service. This commission is paid either by the merchant (e.g., eBay) or the consumer (e.g., Airbnb).

28. These types of platforms are not engaged in setting prices, and are therefore unlikely to impose RPM. They cannot directly influence the price that a merchant offers since the good remains in the ownership of the seller. The only way an online platform could influence the price of a good would be to adjust the commission rate or service fee. By imposing high fees as soon as a certain price level is undercut, platforms could give merchants an incentive to avoid cutting prices below a certain level, which would have an effect equivalent to the effect of RPM. While technically this would be possible, a platform would not have an interest in acting in such a manner unless, of course, it were in agreement with a merchant who had an interest in keeping prices high. This would not be considered RPM or a practice similar to it, however, but would rather be reviewed under the rules prohibiting concerted practices or abuses of dominance.

3. Online platforms that recommend or fix prices

29. Some platforms go further than connecting merchants and customers. These platforms are also active in pricing the offers that merchants provide. The best example of this type of platform is Uber, which is a platform that connects drivers and customers, but that also sets the price that customers will have to pay. Uber transfers this price to the driver, minus a commission of around 20%. A different model is employed by BlaBlaCar, which is a platform that specializes in carpooling. Like Uber, BlaBlaCar connects drivers and customers, but instead of setting the price, it recommends a price based on a range of factors such as fuel cost, wear and tear, and tolls. Drivers are free to set their own price, however. Just like Uber, BlaBlaCar takes a commission on the price paid to the driver.

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

30. Before looking at the risks of RPM or equivalent practices, it should first be considered whether article 101 TFEU would apply to these platforms at all. In several EU Member States, there is a debate over the question of whether Uber drivers should be considered "employed" or "independent."[19] This is interesting not only from a labor law perspective, but also from a competition law perspective because competition rules prohibiting anticompetitive agreements cannot apply to agreements between an undertaking and an employee or a "false self-employed."[20] Whether Uber drivers are employed or not for the purpose of EU law has not been finally decided yet. In the *Asociación Profesional Elite Taxi* case, however, Advocate General Szpunar had the opportunity to briefly discuss this question. The Advocate General said that "[d]*rivers who work on the Uber platform do not pursue an independent activity that exists independently of the platform.*"[21] The ECJ did not specifically endorse or reject this statement, but concurred with the Advocate General's overall assessment. Under the Advocate General's view, it is unlikely that EU competition law would apply to the relationship between Uber and its drivers in the first place.

31. Even if competition law were applicable, the concept of RPM cannot be applied to Uber because the market in which it operates cannot be separated into the categories of manufacturer and reseller. Uber is not reselling anything; it is offering a service. The Court held in *Asociación Profesional Elite Taxi* that the intermediation role of Uber must be "*regarded as forming an integral part of an overall service whose main component is a transport service.*"[22] In other words, in the Court's view, Uber is not just a manufacturer or a retailer, it is both. In this scenario, RPM does not apply. According to the Court, a practice equivalent to RPM would not exist for the same reason: if only one service is provided and nothing is resold, then the resale price cannot be considered restricted. There is simply a price that has been set by the service provider itself.

32. BlaBlaCar is in a different situation. Unlike Uber, BlaBlaCar's intermediation service is not a part of the overall offer. The driver does not drive with the aim of bringing the customers from point A to point B. The driver has to get to point B anyway but decides to take some people with him, which means that BlaBlaCar is offering a separate service. In such a scenario, it would be interesting to see if RPM could take place.

33. According to the European Commission's Guidelines on Vertical Restraints, even recommended prices can amount to RPM if the prices are in fact "*minimum or fixed sale price as a result of pressure from, or incentives offered by, any of the parties.*"[23] If the recommended price works as a focal point and is widely followed, even if it is not imposed by the manufacturer but by a platform, this can amount to a practice that is equivalent to RPM. Looking at BlaBlaCar, prices seem to be rather uniform. For a trip from Brussels to Paris (not including trips that include this route but have a different starting and ending points), the price is almost always the same, i.e., €24.[24] The price recommendation of BlaBlaCar therefore seems to create a standard price, which would at first glance be an argument in favor of a finding of a practice equivalent to RPM. On the other hand, BlaBlaCar in no way pressures drivers to adopt their suggested price. It purely recommends a best price based on its estimate of objective factors such as fuel prices, wear and tear, and tolls. Since BlaBlaCar does not operate its own cars, it would not benefit from high prices. If anything, BlaBlaCar would have an incentive to keep prices low so that rival platforms do not gain market share by lowering market prices (for example, by giving drivers incentives to offer lower prices on their trips).

34. The analysis could be different for platforms that also offer their own products in competition with the ones offered by merchants on the same platform. This scenario will be considered below. In situations like the one above, it follows that when platforms recommend or fix prices, it is unlikely to be considered RPM, or a practice equivalent to RPM.

4. Hybrid platforms

36. The final type of e-commerce platform acts as an intermediary between merchants and customers, but, in addition to this intermediary role, also acts as a merchant and possibly even as a manufacturer (the so-called "hybrid" platforms). The obvious example would be Amazon, which is an intermediary, merchant, and manufacturer at the same time. Firstly, Amazon is an intermediary that connects merchants and customers while collecting a commission from merchants (either per transaction or per month). Secondly, it is also a merchant that buys products from manufacturers, stores them, and resells them. Finally, it is increasingly becoming a manufacturer that produces its own private label products and sells them on its platform. Unlike platforms that have a pure intermediary role, platforms with a retail function might have not only the ability to keep prices high, but also the incentive to do so. This may not be considered traditional RPM because there is no vertical link between Amazon and the merchants, but it could at least be considered a practice equivalent to RPM.

37. Considering that platforms like Amazon are also active in the retail of certain goods, they have an interest in making sure that other merchants selling comparable—or even the same—products through their platform do not lower their prices and that they can offer

19 *See*, for example, the judgment of the London Employment Tribunal of 28 October 2016, *Aslam, Farrar and Others v. Uber* (Case 2202551/2015).

20 Case C-413/13 *FNV Kunsten Informatie en Media v. Staat der Nederlanden*, para. 23.

21 Opinion of Advocate General Szpunar in Case 434/15 *Asociación Profesional Elite Taxi v. Uber Systems Spain SL*, para. 56.

22 Case 434/15 *Asociación Profesional Elite Taxi v. Uber Systems Spain SL*, para. 40.

23 European Commission Guidelines on Vertical Restraints, 2010/C 130/01, para. 226.

24 Note: this is the prevalent price at time of writing, January 2019.

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

the best deals. This leads to a conflict of interests for such platforms. On one hand, they need to give attractive conditions to merchants so that these merchants will keep selling their products through the hybrid platform. Also, they need to be able to offer low prices to consumers so that these keep buying through the platform. On the other hand, a hybrid platform has an interest in ensuring high volumes and/or margins on the products it resells or that it manufactures itself.

38. A platform has two options for preventing negative pricing pressure from other platforms, or other merchants using the same platform. First, if it has the required market power, it can convince merchants to fix prices above a certain level on other platforms. This would reduce the pricing pressure that these competing platforms can exert on the products sold by the first platform, thereby eliminating competitive constraints from other platforms (restriction of *inter*-platform competition).

39. Second, a platform would have an interest in requiring the merchants using its own platform to maintain a certain minimum price level for products that the platform is also offering. That way, the platform could price just below the merchants, but potentially still at a supra-competitive level, without other merchants undercutting this price (restriction of *intra*-platform competition). There are several ways for a platform to achieve this. The platform could for instance convince manufacturers to charge higher prices to merchants, thereby forcing merchants to increase prices to maintain margins. Another way for a platform to exert pressure on the merchants' retail prices would be to increase the service fees that the platform is charging, thereby forcing the merchants to pass on a part of these additional costs to customers by raising retail prices. Finally, a platform could also directly pressure merchants to increase their retail prices. If the merchant does not comply, the platform could impose retaliation measures (e.g., impose a higher commission or service fees, or simply ban that merchant). That way, it would eliminate competitive constraints from merchants on the same platform.

40. Clearly, all of these options require that the platform engaging in retail sales also has market power. Otherwise, it could not convince merchants to increase the prices they offer on other platforms. Also, without market power, a platform would have a weak bargaining position with other merchants. The possibility of a platform engaging in practices that have an equivalent effect to RPM would therefore be limited to hybrid platforms with market power.

41. Indeed, from an economic point of view, once a hybrid platform gains market power and eventually even becomes dominant, attempts to keep prices high on the platform would no longer lead to a loss of commissions from third-party transactions. The choice to maintain high prices therefore ceases to be a win/loss calculation for the hybrid platform but becomes purely profit maximizing. Merchants would be obliged to sell through the third-party platform, even if this means that prices are kept excessively high, harming consumers who are not able to buy the products elsewhere. This is exactly the theory of harm that rules on RPM seek to address. In the light of this, it would make sense to apply these rules to this situation also.

43. There are also other anticompetitive risks when hybrid e-commerce platforms have a dominant position. The European Commission's informal investigation (announced in September 2018) into the way that Amazon uses information gathered from merchants using its platform is a good example of this type of risk. The allegations behind these investigations are that Amazon collects sales data from merchants selling products through Amazon, and that Amazon then uses this data to offer the products that are successful itself (without facing the uncertainty of launching new products). This could amount to an abuse of dominance since Amazon could use its potential dominant position on the markets for online merchant platforms to extract information from hosted merchants and use this information to its advantage, with the aim of driving these merchants out of the market. This would confirm that hybrid platforms in dominant positions could be inclined to engage in conduct deriving from conflicts of interests and having anticompetitive effects. The EU antitrust complaint recently filed by Spotify against Apple, alleging that the iPhone maker unfairly limits rivals to its own Apple Music streaming service, is another example of problematic conflict of interests, when powerful platforms directly compete with downstream online services.

5. Interim conclusion

44. It is clear that the traditional RPM concept might not apply to platforms due to the lack of a traditional vertical relationship, but this does not preclude the existence of practices that have an effect equivalent to RPM. It seems, however, that, in general, online platforms do not have an incentive to impose practices equivalent to RPM. Most platforms act as pure intermediaries and are not active in the market itself, which means they have no reason to keep resale prices high. To the contrary, such a practice would be against a platform's interests since it would work in favor of rival platforms.

45. Hybrid platforms are a notable exception. Because they are both merchants and intermediaries, once hybrid platforms are dominant and no longer need to offer low prices to attract new customers, they have the incentive and ability to maintain competing merchants' prices above a certain level and offer their own products just below that level. Outside of this narrow exception, however, practices with an equivalent effect to RPM do not seem to be the prevalent concern of platforms' potential anticompetitive conduct.

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

III. The real anticompetitive threats of platforms under Art. 101 TFEU

1. Horizontal issues

46. As was established in the previous parts of this article, platforms rarely have the ability and incentive to impose RPM or equivalent practices on merchants.

47. Resale price restrictions are not the only way that platforms could harm competition, however. While platforms may not be involved in vertical restraints, the horizontal competition risks that platforms may run should not be forgotten. This part of the article will therefore consider inter-platform competition, i.e., competition between different platforms offering similar interconnection services. Competition between these services is mainly based on service fees, such as commissions. By competing on service fees, platforms compete for both sides of the market. Lower service fees result in lower transaction costs for merchants, which are then incentivized to sell exclusively or mainly through a certain platform. Merchants are also able to lower the costs for their products on the platform with the lowest service fee, which makes it more attractive for consumers to use the platform.

2. Vertical restraints leading to horizontal concerns: MFN/ parity clauses

48. Applying competition rules to online marketplaces is not unprecedented. By 2015, investigations into the online e-book and hotel reservation markets had already revealed the anticompetitive harm that most-favored-nation clauses ("MFN clauses") could have, and, in particular, the risk of RPM that they entail.[25] The anticompetitive harm flows from the fact that MFN clauses imposed by one platform prevent merchants from offering their services or products on another platform at more favorable conditions, such as lower prices, without first offering this lower price to the platform imposing the MFN. This removes the incentive for platforms such as hotel portals to compete by offering lower commissions or adopting new sales strategies to compete for the merchant side of the market (i.e., the hotels).[26] To quote the German competition authority: "*The MFN clauses remove the economic incentives for the hotel portals to offer lower commissions to the hotels or to face up to competition by adopting new sales strategies. Market entries by new competitors are made more difficult and opportunities open to hotels are considerably restricted. Hotels cannot use different hotel portals and other sales channels in order to make offers at different prices and conditions.*"[27]

49. This increases the final costs for the consumer because the lack of competition at the platform level means that the hotel will not benefit from better conditions and therefore cannot offer lower prices.[28] It also means that hotels are limited in their capacity to set their prices freely, for instance by making better offers on different platforms or on their own websites.[29]

50. The harm created by MFNs was also confirmed by the European Commission in its *E-book* decision, which stated that the MFN clauses employed by Amazon were "*capable of reducing, or likely to reduce, the competitiveness of E-book Retailers by limiting their scope to differentiate on the basis of alternative business models. This reduces the intensity of competition at the e-book distribution level and is in itself to the detriment of consumers since less competition may result in higher e-book prices and less choice.*"[30]

51. For these reasons, MFN clauses have been held to restrict competition. While the competitive harm of these clauses seems obvious, there is also a good justification for them. Most platforms acting as intermediaries do not charge consumers for making searches, but instead charge merchants a service fee. Platforms have to invest in their user interfaces and their search algorithms to ensure that consumers find exactly the product they need. This can lead to free riding, whereby a rival platform invests less in its user interface or search algorithm, but also reduces its service fee, therefore attracting merchants who would be able to offer lower prices on that platform. This, in turn, attracts consumers, who would rely on the better interface and search function of the first platform, but only buy the product on the cheaper platform.[31] The role of MFNs is precisely to prevent this free riding, and competition authorities have been criticized for not taking these inefficiencies (sufficiently) into account.

25 *See* for example investigations in Germany, France and Sweden.

26 *See* Decision of the French Competition Authority No. 15-D-06 dated 21 April 2015, para. 115 (available at: http://www.autoritedelaconcurrence.fr/pdf/avis/15d06.pdf).

27 Bundeskartellamt, Case B 9 – 66/10, para. 9 (available at: http://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Entscheidungen/Kartellverbot/B9-66-10.pdf?blob=publicationFile&v=3).

28 *See* Decision of the French Competition Authority No. 15-D-06 dated 21 April 2015 (cited above), para. 117–118.

29 Bundeskartellamt, Case B 9 – 66/10 (cited above), para. 9.

30 Case AT.40153 *E-book MFNs and related matters (Amazon)*, para. 89.

31 C. Caffarra and K.-U. Kühn, The competition analysis of vertical restraints in multi-sided markets, Hearing on Re-thinking the use of traditional antitrust enforcement tools in multi-sided markets, DAF/COMP/WD(2017)36/FINAL, para. 11.

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

3. Purely horizontal restraints: service fee coordination

52. Apart from MFNs, there are of course other ways that platforms could collude. While MFNs concern vertical restraints that lead to horizontal issues, it is also imaginable that platforms would enter into horizontal agreements right away. For example, if two platforms were to coordinate on the service fees they charge, it would be a clear example of price fixing and would almost certainly be a violation of competition law. A similar issue would be information exchange. It would be possible for platforms to exchange information on the service fees they charge to merchants, provided that these are not public already. More broadly speaking, any type of agreement that reduces incentives for platforms to compete for merchants or customers could be a violation of competition law. In this respect, any restriction applicable to offline restrictions would also be applicable to platforms.

53. The risk of anticompetitive conduct depends to a large extent on the market structure concerned. Some markets are concentrated and services are very similar, which may create an ideal environment for collusion. However, platforms active in other sectors can be completely different, ranging from platforms that are dominant to fragmented markets where many platforms operate and collusion would not be sustainable (e.g., platforms offering software). On these platforms, collusion would be less likely (either because the platform is already dominant or because collusion is unsustainable).

IV. Is platform regulation the way forward?

54. In April 2018, the European Commission proposed a new regulatory framework that aims to regulate the relationship between platforms and the merchants that are active on those platforms.[32] On 13 February 2019, the European Parliament, the Council of the European Union and the European Commission reached a political deal on the first-ever rules aimed at creating a fair, transparent and predictable environment for businesses when using online platforms.

55. The proposed regulation mainly includes transparency requirements on platforms, which will have to provide information on the way that they treat merchants. For example, the proposed regulation provides that merchants may only be excluded from a digital platform as long as reasons are provided. It requires platforms to disclose the main parameters that affect how merchants are ranked in their search results, any more favorable treatment given to goods provided by the platform itself, as well as what data the platforms collect and how they use it. The proposed regulation also requires platforms to disclose their reasons for restricting the ability of merchants to offer different conditions elsewhere (i.e., to disclose their MFN clauses).

56. If it comes into force, the effects of the proposed EU regulation would be twofold. First, merchants would be able to compare platforms and choose to use the one that offered the most favorable terms, thereby benefiting those platforms that included pro-competitive terms and conditions. Second, disclosure requirements would enable competition authorities to effectively monitor online platforms and intervene if the terms are contrary to competition law. The mere risk of such enforcement could alone lead to more pro-competitive behavior by online platforms. In either case, it follows that the proposed regulation could have pro-competitive effects. Whether regulation would also solve (some of) the competitive issues that have been outlined above is another question.

58. From the perspective of RPM and conduct equivalent to it, this paper only identified the risk that hybrid platforms, which offer goods that compete with the goods offered by merchants active on the same platforms, would attempt to fix the resale price of the relevant goods. While the proposed regulation would introduce a duty to disclose discriminatory treatment, urging merchants to adopt a certain price would not necessarily consist of discriminatory treatment and therefore would not have to be disclosed. However, any retaliation by a platform against a merchant likely would have to be disclosed according to the regulation, whether the retaliation involved excluding the merchant from the platform or using ranking positions that were unfavorable to the merchant. However, the idea that platforms could find a way to "punish" a merchant without triggering any disclosure requirement cannot be excluded. This could make the proposed regulation rather ineffective for tackling issues of RPM.

59. The regulation would not directly apply to horizontal cooperation between platforms since the regulation only applies to the relationship between platforms and merchants. The only way that inter-platform cooperation could become visible is through the duty established by the proposed regulation to make the terms and conditions (and any change to these terms and conditions) available in "*clear and unambiguous language.*" Parallel or anticompetitive terms and conditions could therefore be more easily detected by competition authorities.

60. Another regulatory development that could affect platforms is the review of the Vertical Block Exemption Regulation ("VBER") in the EU. The current VBER is due to expire in 2022, and a public consultation concerning an update is currently ongoing. The current block exemption regulation applies only to vertical agreements, which are defined as "*agreements* (…) *between*

32 Proposal for a regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services, 26 April 2018, COM(2018) 238 final.

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

two or more undertakings each of which operates (…) *at a different level of the production or distribution chain.*" It will be interesting to see if the new VBER refers to conduct that, although it does not take place in a strictly vertical setting, has the same anticompetitive effect as conduct in a vertical scenario and in particular whether "hardcore restrictions" cover practices equivalent to RPM implemented by online platforms.

Conclusion

61. Applying rules on RPM to online platforms can seem counterintuitive, as it means applying traditional vertical analysis to situations that are not purely vertical, such as the relationship between merchants and platforms. However, new developments require a change of perspective, such as recognizing that in some circumstances, hybrid platforms may have the ability and incentive to restrict resale prices despite not actually being in a purely vertical relationship with the merchants active on the platform.

62. Beyond RPM, the dual role of hybrid platforms creates an inherent conflict of interests, which may clearly restrict *intra*-platform competition (through e.g. exclusionary/exploitative use of data, exchange of commercially sensitive information with competing merchants, refusal to deal and/or discrimination) and raise interesting competition law issues under articles 101/102 TFEU. Inter-platform restrictions of competition also remain an important antitrust concern. Due to the multi-sided markets in which platforms operate, any anticompetitive conduct on the platform level would affect not only one side of the market but also other sides at the same time, thereby increasing the anticompetitive harm created. ■

Ce document est protégé au titre du droit d'auteur par les conventions internationales en vigueur et le Code de la propriété intellectuelle du 1er juillet 1992. Toute utilisation non autorisée constitue une contrefaçon, délit pénalement sanctionné jusqu'à 3 ans d'emprisonnement et 300 000 € d'amende (art. L. 335-2 CPI). L'utilisation personnelle est strictement autorisée dans les limites de l'article L. 122 5 CPI et des mesures techniques de protection pouvant accompagner ce document. This document is protected by copyright laws and international copyright treaties. Non-authorised use of this document constitutes a violation of the publisher's rights and may be punished by up to 3 years imprisonment and up to a € 300 000 fine (Art. L. 335-2 Code de la Propriété Intellectuelle). Personal use of this document is authorised within the limits of Art. L 122-5 Code de la Propriété Intellectuelle and DRM protection.

Concurrences

Concurrences est une revue trimestrielle couvrant l'ensemble des questions de droits de l'Union européenne et interne de la concurrence. Les analyses de fond sont effectuées sous forme d'articles doctrinaux, de notes de synthèse ou de tableaux jurisprudentiels. L'actualité jurisprudentielle et législative est couverte par onze chroniques thématiques.

Editoriaux

Jacques Attali, Elie Cohen, Claus-Dieter Ehlermann, Jean Pisani Ferry, Ian Forrester, Eleanor Fox, Douglas H. Ginsburg, Laurence Idot, Frédéric Jenny, Arnaud Montebourg, Mario Monti, Gilbert Parleani, Jacques Steenbergen, Margrethe Vestager, Bo Vesterdorf, Denis Waelbroeck, Marc van der Woude...

Interviews

Sir Christopher Bellamy, Lord David Currie, Thierry Dahan, Jean-Louis Debré, Isabelle de Silva, François Fillon, John Fingleton, Renata B. Hesse, François Hollande, William Kovacic, Neelie Kroes, Christine Lagarde, Johannes Laitenberger, Emmanuel Macron, Robert Mahnke, Ségolène Royal, Nicolas Sarkozy, Marie-Laure Sauty de Chalon, Tommaso Valletti, Christine Varney...

Dossiers

Jacques Barrot, Jean-François Bellis, David Bosco, Murielle Chagny, John Connor, Damien Géradin, Assimakis Komninos, Christophe Lemaire, Ioannis Lianos, Pierre Moscovici, Jorge Padilla, Emil Paulis, Robert Saint-Esteben, Jacques Steenbergen, Florian Wagner-von Papp, Richard Whish...

Articles

Guy Canivet, Emmanuelle Claudel, Emmanuel Combe, Thierry Dahan, Luc Gyselen, Daniel Fasquelle, Barry Hawk, Nathalie Homobono, Laurence Idot, Frédéric Jenny, Bruno Lasserre, Luc Peeperkorn, Anne Perrot, Nicolas Petit, Catherine Prieto, Patrick Rey, Joseph Vogel, Wouter Wils...

Pratiques

Tableaux jurisprudentiels : Actualité des enquêtes de concurrence, Contentieux indemnitaire des pratiques anticoncurrencielles, Bilan de la pratique des engagements, Droit pénal et concurrence, Legal privilege, Cartel Profiles in the EU...

International

Belgium, Brésil, Canada, China, Germany, Hong-Kong, India, Japan, Luxembourg, Switzerland, Sweden, USA...

Droit & économie

Emmanuel Combe, Philippe Choné, Laurent Flochel, Frédéric Jenny, Gildas de Muizon, Jorge Padilla, Penelope Papandropoulos, Anne Perrot, Nicolas Petit, Etienne Pfister, Francesco Rosati, David Sevy, David Spector...

Chroniques

Ententes

Ludovic Bernardeau, Anne-Sophie Choné Grimaldi, Michel Debroux, Etienne Thomas

Pratiques unilatérales

Laurent Binet, Frédéric Marty, Anne Wachsmann

Pratiques commerciales déloyales

Frédéric Buy, Valérie Durand, Jean-Louis Fourgoux, Rodolphe Mesa, Marie-Claude Mitchell

Distribution

Nicolas Ereseo, Dominique Ferré, Didier Ferrier, Anne-Cécile Martin

Concentrations

Jean-François Bellis, Olivier Billard, Jean-Mathieu Cot, Ianis Girgenson, Sergio Sorinas, David Tayar

Aides d'État

Jacques Derenne, Bruno Stromsky, Raphaël Vuitton

Procédures

Pascal Cardonnel, Alexandre Lacresse, Christophe Lemaire

Régulations

Orion Berg, Hubert Delzangles, Emmanuel Guillaume

Mise en concurrence

Bertrand du Marais, Arnaud Sée

Actions publiques

Jean-Philippe Kovar, Francesco Martucci, Stéphane Rodrigues

Droits européens et étrangers

Walid Chaiehloudj, Sophie-Anne Descoubes, Marianne Faessel, Pierre Kobel, Silvia Pietrini, Jean-Christophe Roda, François Souty, Stéphanie Yon-Courtin

Livres

Sous la direction de Stéphane Rodrigues

Revues

Christelle Adjémian, Mathilde Brabant, Emmanuel Frot, Alain Ronzano, Bastien Thomas

Tarifs 2019

Abonnement Concurrences+

Devis sur demande
Quote upon request

Revue et Bulletin : Versions imprimée (Revue) et électroniques (Revue et Bulletin) (avec accès multipostes pendant 1 an aux archives)
Review and Bulletin: Print (Review) and electronic versions (Review and Bulletin)
(unlimited users access for 1 year to archives)

Conférences : Accès aux documents et supports (Concurrences et universités partenaires)
Conferences: Access to all documents and recording (Concurrences and partner universities)

Livres : Accès à tous les e-Books
Books: Access to all e-Books

Abonnements Basic

e-Bulletin e-Competitions | e-Bulletin e-Competitions

	HT Without tax	TTC Tax included
☐ Version électronique (accès monoposte au dernier N° en ligne pendant 1 an, pas d'accès aux archives) *Electronic version (single user access to the latest online issue for 1 year, no access to archives)*	785,00 €	942,00 €

Revue Concurrences | Review Concurrences

	HT Without tax	TTC Tax included
☐ Version électronique (accès monoposte au dernier N° en ligne pendant 1 an, pas d'accès aux archives) *Electronic version (single user access to the latest online issue for 1 year, no access to archives)*	565,00 €	678,00 €
☐ Version imprimée (4 N° pendant un an, pas d'accès aux archives) *Print version (4 issues for 1 year, no access to archives)*	615,00 €	627,92 €

Renseignements | Subscriber details

Prénom - Nom | *First name - Name* . . . .

Courriel | *e-mail* . . . .

Institution | *Institution* . . . .

Rue | *Street* . . . .

Ville | *City* . . . .

Code postal | *Zip Code* . . . . Pays | *Country* . . . .

N° TVA intracommunautaire | *VAT number (EU)* . . . .

Formulaire à retourner à | Send your order to:

Institut de droit de la concurrence
68 rue Amelot - 75 011 Paris - France | webmaster@concurrences.com

Conditions générales (extrait) | *Subscription information*

Les commandes sont fermes. L'envoi de la Revue et/ou du Bulletin ont lieu dès réception du paiement complet.
Consultez les conditions d'utilisation du site sur www.concurrences.com ("Notice légale").

Orders are firm and payments are not refundable. Reception of the Review and on-line access to the Review and/or the Bulletin require full prepayment. For "Terms of use", see www.concurrences.com.

Frais d'expédition Revue hors France 30 € | *30 € extra charge for shipping Review outside France*