

COMIPinDigiMarkts2023

Sustainable & Digital Competition on the Merits: A Comparative and Interdisciplinary Perspective

Venue: Maastricht University, Maastricht, The Netherlands (in-hybrid mode)

Date: 22 & 23 June 2023

Digitalization and sustainability have been identified as a top priority in the EU's Green Deal to ensure a truly competitive and sustainable digital single market. This strategy not only feeds into the competitiveness of the EU, but it will also ensure the entry and sustainability of a diverse set of market players in the internal market. This is also expected to have a positive spill-over effect to address the ever emerging geopolitical challenges. While on the one hand, digitalization brings in a new set of challenges, such as the black box algorithms and the rise of supra-dominant global players, such as Google and Amazon; on the other, it also enhances access to information, and offers users a platform to express their opinion. In addition, insights gained from mass-scale data gathering and machine learning techniques bear the potential of enabling innovation that will make our economies more sustainable.

The importance of personal data for the digital economy can hardly be overestimated. Information about consumers' purchasing behaviour, their beliefs and interests and their use of digital products and services can be used for targeted advertising, product recommendations, the development and improvement of digital services or products with digital components, etc. These personal data may give rise to legal issues related to data protection and to the protection of competition. Traditionally, each of these legal fields have sector-specific substantive and procedural rules and enforcement agencies. Recent cases such as the German Facebook case and the Meta case suggest that the digital economy gives rise to cases where issues of data protection and competition are interconnected. What is the inter-relationship between personal data, non-personal data and competition policy? Will the emerging EU regulatory framework (such as the EU Digital Markets Act, Digital Services Act, and the Data Act, in addition to the General Data Protection Regulation) well-address this complex innovation and sustainability nexus?

Over the past few decades, there has been increasing collaboration between direct competitors. Such so-called cooperative alliances are intended to promote innovation since, it is argued, companies often lack the knowledge and resources to conduct R&D effectively on their own. Volkswagen and Ford, for example, worked closely together to achieve scale economies and develop new cars with path-breaking technologies. Similarly, competitors Philips and Siemens collaborated to create more efficient semiconductors. In pharmaceuticals, BioNTech and Pfizer joint forces to develop COVID-19-vaccines. There are plenty of more examples.

Though it is not difficult to see the potential benefits of cooperation in the complex market economies of today, there are also some clear concerns. For instance, are current IP systems well designed to facilitate effective cooperation between competitors? Also, to what extent does cooperation foster collusion? Indeed, there is some initial evidence that close collaboration on R&D results in higher prices in the product market. What does this imply for competition law enforcement? And, more generally, under what conditions may we expect cooperation to enhance the welfare of consumers and society at large?

Related to this is Adam Smith's fear of collusion. How does collusion take place in the digital world? Does our current economic approach sufficiently address these instances of collusion and supra-dominant platforms? How do jurisdictions across the globe deal with such anti-competitive outcomes? What are the new emerging models of regulation to address these new challenges to legal enforcement? Alternatively, do we want to allow for some degree of collusion, if it is established that this may lead to more environmental protection?

The emerging digital dynamics have also fundamentally altered marketing and distribution - it has brought about new phenomena like influencer marketing on social media, targeted advertising and novel sales outlets like online marketplaces. These developments pose challenges both to trademark and competition law, e.g. when it comes to the use of trademarks, the contractual arrangements in online retail, and the terms and conditions of (dominant) platforms. How do we categorise these novel IP and competition law issues in the digital context?

How can we benefit from other disciplines such as business strategy, consumer psychology and behavioural and neo-classical economics to understand this twin phenomenon of digitalization and sustainability?

Different interests can be balanced and attained only in a freely functioning internal market, where firms compete on the merits, and any anti-competitive effects are addressed in a timely manner. Considering the role of innovation to facilitate a sustainable and digital future, this conference assesses the role of innovation laws, namely, IP and competition laws, to facilitate EU's green and digital transition. In light of the sustainable dimension of this year's conference, the debate also needs to be seen in light of the sustainable development goals (SDG) – such as (digital) health for all (namely SDG 2), no poverty and enhanced access to resources (namely SDG 1) and sustainable production and consumption patterns (namely SDG 12).

Safeguarding within-country competitiveness in a market system is paramount for creating an environment where fulfilled formal postulates can bring about a setting consistent with theoretical assumptions. Hence, the importance of designing and implementing a supportive, economic and legal regulatory framework. However, the latter is a necessary but insufficient

condition in a globalised world where cross-country differences can distort the competitive standing of individual agents and bring about monopoly power and absolute advantage theory. Insofar as the global authorities are focused on normative instead of real power relations, the distribution of benefits among stakeholders will remain unequal and solidified by the existing competitive (dis)advantages. It is also, accordingly, valuable to discuss the macro-impediments and structural shortcomings that stand in the way of levelling the cross-country playing field and deliver the promise of an equitable society.

In light of the multidisciplinary nature of the debate, the issue is addressed from a comparative and cross-disciplinary perspective.

So please make your submissions, and contribute to the interdisciplinary and comparative debate on sustainable and digital transition.

Abstracts

Participants are encouraged to submit abstracts dealing with any area of intellectual property and competition law. Suggested topics include:

Topic 1: Green and Digital Transition

Topic 2: How Geopolitical Macro-impediments and Structural Shortcomings Contribute to Monopoly Power?

Topic 3: Artificial Intelligence, IP and Competition: An Economic Perspective

Topic 4: Ascent of AI: Time to (Re-)think Fair Use in Digital Markets?

Topic 5: Personal Data, Data Protection and Competition in the Digital Economy

Topic 6: Digital Impact on Trademarks, Competition and Distribution

Topic 7: Exploitative & Exclusionary Conduct in the Digital World: An Economic Perspective

Kindly submit an abstract of about 1000 words with up to 5 key references. The abstract should also contain the methodology used in the paper.

To know more and follow the latest updates, please follow the LinkedIn page, available [here](#).

Video Invitation, and call for papers please see the teaser video, available [here](#).

Please register your interest, and submit your paper, please follow [here](#).

Scientific Committee (in alphabetical order)

Anselm Kamperman Sanders (Professor IP & Academic Director of the Institute for Globalisation and International Regulation (IGIR), Maastricht University and Deputy Judge, Court of Appeal, Hague)

Caroline Cauffman (Associate Professor, Maastricht University)

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Niels Philipsen (Associate Professor, Maastricht University and Professor, Rotterdam)

Important Dates:

Submission of abstracts: 6th March 2023

Notification of acceptance: 4th April 2023

Submission of final papers: 21st May 2023

Date of conference: 22 & 23 June 2023 (hybrid conference, registration will be available as of April)

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