

# INN NEWS

COMPETITION AND DIGITAL PLATFORMS NEWSLETTER

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## NEWSLETTER

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### REGULATION

#### European Union

13/03/2023

#### Executive Vice-President Vestager in Latin America to forge stronger cooperation in digital policies, critical raw materials, and science and innovation

- In Chile, discussions were centered on strengthening collaboration on digital policies and rights including privacy, cybersecurity or platforms, as well as critical minerals for supply chains, and highlighted the great potential of strengthening cooperation in science, innovation and space, based on common priorities.
- In Colombia, conversations focused on enhancing cooperation in the digital and green transitions, in support of the peace agenda.
- And, in Brazil, discussions were mostly on digital infrastructure, connectivity, research and innovation, regulatory cooperation on data governance, cybersecurity, platforms and e-governance.

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CHANCE

13/03/2023

#### Data Act: MEPs back new rules for fair access to and use of industrial data

- The data act aims to establish common rules governing the sharing of data generated by the use of connected products or related services (e.g. the internet of things, industrial machines) to ensure fairness in data sharing contracts.
- Companies would be able to decide what data can be shared, and the manufacturer could choose not to make certain data available “by design”.
- When companies draft their data-sharing contracts, the law will rebalance the negotiation power in favour of SMEs, by shielding them from unfair contractual terms imposed by companies in a significantly stronger bargaining position.
- MEPs also strengthened provisions to protect trade secrets and avoid a situation where increased access to data is used by competitors to retro-engineer services or devices.
- Finally, the data act would facilitate switching between providers of cloud services and other data processing services, and introduce safeguards

against unlawful international data transfer by cloud service providers.

**16/02/2023**

**Digital Services Act – draft implementing regulation**

- The DSA empowers the Commission to adopt implementing acts detailing arrangements on issues identified in Article 83, such as: (i) the proceedings in Articles 69 to 72 regulating aspects of the Commission’s investigatory and enforcement powers; (ii) the hearings in Article 79 and (iii) the negotiated disclosure of information provided for in Article 79.

**15/02/2023**

**Semiconductors: MEPs ready to start talks on new law to boost EU chips industry**

- Recent shortage of semiconductors highlight Europe’s dependence.
- New law aims to increase the EU’s share in global production capacity of semiconductors to 20%.
- Plans to increase EU’s technological capacity, production and innovation.
- A crisis response mechanism needed in case of shortages.

**14/02/2023**

**MEPs back deploying new EU satellites to protect government communications**

- A new network of European IRIS telecommunication satellites will be active from 2024, following the green light by Parliament.
- It intends to function as a secure communications infrastructure for EU government bodies and emergency services, reinforcing the EU’s strategic autonomy and security.

**10/02/2023**

**European Digital Identity Wallets: Commission publishes first technical Toolbox towards prototypes**

- This technical backbone, developed by Member States in close collaboration with the Commission, will be the basis to engineer a prototype Wallet that can be used for testing in a variety of use-cases.
- The Toolbox will complement the legislative proposal on a trusted and secure Digital Identity and is a crucial first step that will enable the creation of a robust framework for digital identification and authentication based on common standards across the EU, aiming to ensure a high level of trust in digital transactions in Europe.

**09/02/2023**

**MEPs back plans for an EU-wide digital wallet**

- The new digital identity framework would provide EU citizens with digital access to key public services across EU borders.
- This, without having to resort to commercial providers, as is the case today.
- MEPs propose to make this wallet a tool that can also read and verify electronic documents, and allow for peer-to-peer interactions. They propose measures to strengthen privacy and cybersecurity as well as to register all transactions to ensure third parties are held accountable.

**02/02/2023**

**MEPs vote for tougher rules on political advertising**

- More information would be available to citizens, authorities and journalists.
- Online advert providers banned from

carrying out micro-targeting.

- Additional sanctions for breaches and shorter deadlines for investigating alleged breaches.
- Banning non-EU based entities from financing political advertisements in the EU.

02/02/2023

**Digital workers: MEPs ready for talks on new law to improve working conditions**

- Negotiations on the new law can start once member states decide on their own position.
- The new rules would regulate how to correctly determine the employment status of platform workers and how digital labor platforms should use algorithms and artificial intelligence to monitor and evaluate workers.

01/02/2023

**Digital Services Act: Commission provides guidance for online platforms and search engines on publication of user numbers in the EU - guidance**

- The Commission has published non-binding guidance to help online platforms and search engines within the scope of the Digital Services Act (DSA) to comply with their requirement to report user numbers in the EU, at the latest by 17 February 2023, and at least once every six months afterwards.
- If the published user numbers show that they reach more than 10% of the EU's population (45 million users), the Commission may designate them as very large online platforms (VLOPs) or very large online search engines (VLOSEs).

18/01/2023

**Protecting gamers and encouraging growth in the video games sector**

- Parliament called for gamers to be better protected from addiction and other manipulative practices, while emphasizing the potential of this innovative sector.
- Children's games must take into account their age, rights and vulnerabilities.
- MEPs demand clearer information on the content, in-game purchase policies and target age group of games, possibly along the lines of the Pan European Game Information (PEGI) system already used in 38 countries.

16/01/2023

**Big Tech sees new EU competition department to rein in digital 'gatekeepers' formally established**

- The team in charge of enforcing new EU competition-focused legislation against tech giants such as Google, Meta Platforms and other digital "gatekeepers" is now formally in place.

**United Kingdom**

10/03/2023

**Digital transformation in government: addressing the barriers to efficiency**

- Across government, outdated IT systems and its aging data are a key source of inefficiency and create a major constraint to improving and modernizing government services.
- Their limitations and poor-quality data increase the cost of services.
- In January 2021, the Cabinet Office created the Central Digital & Data Office (CDDO) to lead the digital, data and technology function across government.

- In June 2022, CDDO published “Transforming for a digital future: 2022 to 2025 roadmap for digital and data which seeks to address some of the underlying digital problems.

24/01/2023

**[Building better foundations in AI - Financial Conduct Authority article](#)**

- Topics such as: the role of innovation in regulation, data & diversity, AI & Machine Learning survey, AI regulation, the role of governance, the FCA digital sandbox, synthetic data’s potential, and other FCA initiatives, are discussed.

**[Spain](#)**

10/02/2023

**[Telefónica will be designated as universal operator of telecom services between 2023 and 2024](#)**

- On December, 2022, the public bidding was unsuccessful. Now, Telefónica has been designated, directly, in accordance with the Universal Service Framework.

**[United States](#)**

23/02/2023

**[New FTC Data Show Consumers Reported Losing Nearly \\$8.8 Billion to Scams in 2022](#)**

- Newly released Federal Trade Commission data shows that consumers reported losing nearly \$8.8 billion to fraud in 2022, an increase of more than 30 percent over the previous year.

**[Australia](#)**

08/02/2023

**[Expanding digital platform ecosystems to be examined by ACCC](#)**

The ACCC will examine:

- The ACCC will examine the expanding ecosystems of digital platform service providers in Australia as part of its’ five-year Digital Platform Services Inquiry.
- “This report will assess how that data can be leveraged across products and services within an ecosystem that may prevent businesses from entering and competing”, ACCC Chair, Gina Cass-Gottlieb, said.

**[Japan](#)**

09/03/2023

**[The Study Group on Innovation and Competition Policy](#)**

- The Japan Fair Trade Commission launched a “Study Group on Innovation and Competition Policy”, consisting of relevant experts in order to discuss innovation and competition policy.

**[South Korea](#)**

**[Korea Fair Trade Commission Adopts the Guidelines for Review of Abuse of Market Dominance by Online Platform Operators](#)** - Law firm newsletter

- January 11, 2023, the Korea Fair Trade Commission (“KFTC”) held a full committee hearing and officially adopted the Guidelines for Review of Abuse of Dominance by Online Platform Operators.
- The Guidelines went through major changes from the initial draft that was released a year ago..

## MERGER CONTROL

### United Kingdom

29/03/2023

#### Broadcom / VMware merger inquiry

- The CMA is investigating the anticipated acquisition by Broadcom Inc. of VMware, Inc.
- According to the authority, on the information currently available to it, it is or may be the case that this merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

24/03/2023

#### Microsoft / Activision Blizzard merger inquiry updated

- The CMA is investigating the anticipated acquisition by Microsoft Corporation of Activision Blizzard, Inc.
- However, the CMA has provisionally concluded that the anticipated acquisition by Microsoft Corporation of Activision Blizzard, Inc. will not result in a substantial lessening of competition in relation to console gaming in the UK.

09/01/2023

#### Facebook, Inc (now Meta Platforms, Inc) / Giphy, Inc merger inquiry

- The CMA is investigating the completed acquisition by Facebook, Inc (now Meta Platforms, Inc) of Giphy, Inc.
- On January, the Remedy Group was appointed by the FTC.

### Austria

09/01/2023

#### AFCA refers examination of Adobe Inc., USA/Figma, Inc. USA merger to European Commission

- Adobe offers a desktop-based interactive product design tool (Adobe XD) while Figma's web-based collaboration tool for interactive product design (Figma Design) enables several users to collaborate in real time.
- Apart from potential horizontal overlaps, possible conglomerate effects such as bundling or integration of products should also be examined.

### United States

09/03/2023

#### FTC Acts to Block Deal Combining the Two Top Mortgage Loan Technology Providers

- Intercontinental Exchange Inc.'s proposed acquisition of rival Black Knight, Inc. would harm competition and lead to higher costs for lenders and homebuyers.

### Argentina

23/02/2023

#### The CNDC included a new search engine in its web page for citizens to be able to find gun jumping caselaw

- The database will be updated frequently by the CNDC's Legal & Economic Studies General Management team.



## ANTITRUST ENFORCEMENT

### European Union

23/02/2023

#### The European Commission accepts Amazon's commitments and ends the investigation

- Commitments involving criteria related to the "Prime" seal, Buy Box and the use of external vendors' data, were accepted by the Commission.
- Commitments will be monitored by the Commission over the next 5-7 years.

28/02/2023

#### Commission sends Statement of Objections to Apple clarifying concerns over App Store rules for music streaming providers

26/01/2023

#### Consumer protection: Google commits to give consumers clearer and more accurate information to comply with EU rules

20/12/2022

#### AT.40703 Amazon - Buy Box – commitments decision published

20/12/2022

#### AT.40462 Amazon Marketplace – commitments decision published

19/12/2022

#### Commission decision to close antitrust proceedings in case AT.40774 – Google-Meta (Open Bidding) agreement.

### United Kingdom

10/03/2023

#### The CMA is investigating Apple's conduct in relation to the distribution of apps on iOS and iPadOS devices in the UK

- In particular, the T&Cs governing app developers' access to Apple's App Store.

10/03/2023

#### Investigation into suspected anti-competitive conduct by Google

- The CMA is investigating Google's conduct in relation to Google's distribution of apps on Android devices in the UK, in particular Google's Play Store rules which oblige certain app developers to use Google's own payment system (GPlay Billing) for in-app purchases.

10/03/2023

#### Investigation into suspected anti-competitive conduct by Google in ad tech

- The CMA is investigating whether Google might have abused a dominant position through its conduct in ad tech.

10/03/2023

#### Investigation into Meta's (formerly Facebook) use of data

- Investigation into whether Google and Meta entered into an anti-competitive agreement, and whether Google might have abused a dominant position through its conduct in relation to header bidding services.

15/02/2023

#### The CMA is carrying out a market investigation in respect of the supply of mobile browsers and browser engines, and the distribution of cloud gaming services through app stores on mobile devices in the UK

15/02/2023

#### Investigation into Meta's (formerly Facebook) use of data

- The CMA is investigating whether Meta

might be abusing a dominant position in the social media or digital advertising markets through its collection and use of advertising and single sign-on data.

31/01/2023

**Investigation into Google's 'Privacy Sandbox' browser changes**

- The CMA has accepted commitments offered by Google that address the CMA's competition concerns resulting from investigating Google's proposals to remove third-party cookies and other functionalities from its Chrome browser.

20/01/2023

**Apple Inc. & Others V CMA**

- The hearing of the application took place on 10 March 2023. Judgment is reserved.

11/01/2023

**Investigation into Amazon's Marketplace**

- The CMA is investigating Amazon's conduct in relation to the way that non-public third-party seller data may be used within Amazon's retail business, how Amazon sets criteria for selecting which product offer is placed within the 'Buy Box' and which sellers can list products under Amazon's 'Prime label' on its Marketplace in the UK.

10/01/2023

**Investigation into conduct of Education Software Solutions Limited**

- The CMA has accepted commitments offered by ESS that address the CMA's competition concerns regarding ESS' move to 3 year contracts in the supply of management information systems software without giving customers an opportunity to avoid the change.

**Germany**

11/02/2023

**Statement of objections issued against Google's data processing terms**

23/01/2023

**Bundeskartellamt initiates proceeding against PayPal**

21/12/2023

**Improvements for publishers using Google News Showcase**  
**Netherlands**

06/03/2023

**Following an EU action, WhatsApp will, going forward, provide clear information about changes to its terms of service**

**Luxembourg**

19/01/2023

**Bundeskartellamt - Statement of objections against Google's data processing terms**

**United States**

14/03/2023

**FTC Finalizes Order Requiring Fortnite maker Epic Games to Pay \$245 Million for Tricking Users into Making Unwanted Charges**

06/03/2023

**FTC Sends Nearly \$2.4 Million to Raging Bull Customers After the Company Agrees to Settle Charges of Bogus Earnings Claims**

02/03/2023

**FTC to Ban BetterHelp from Revealing Consumers' Data, Including Sensitive Mental Health Information, to Facebook and Others for Targeted Advertising**

16/02/2023  
[FTC Charges Supplement Marketer with Hijacking Ratings and Reviews on Amazon.com and Using Them to Deceive Consumers](#)

09/02/2023  
[FTC Approves Final Orders against Google and iHeartMedia for Deceptive On-Air Endorsements for Google's Pixel 4 Phone](#)

01/02/2023  
[FTC Enforcement Action to Bar GoodRx from Sharing Consumers' Sensitive Health Info for Advertising](#)

29/01/2023  
[FTC Finalizes Order with Ed Tech Provider Chegg for Lax Security that Exposed Student Data](#)

25/01/2023  
[FTC Returns More Than \\$973,000 to Consumers Charged by NutraClick LLC for Unwanted Monthly Subscriptions for Supplements and Beauty Products](#)

24/01/2023  
[Justice Department Sues Google for Monopolizing Digital Advertising Technologie](#)

19/01/2023  
[Wireless Customers Who Were Subject to Data Throttling by AT&T Can Apply for a Payment from the FTC](#)

19/02/2023  
[FTC Finalizes Order with Online Alcohol Marketplace for Security Failures that Exposed Personal Data of 2.5 million People](#)

[Australia](#)

08/02/2023  
[Employsure to pay \\$3m penalty for misleading](#)

[Google ads after ACCC appeal](#)

27/01/2023  
[ACCC social media sweep targets influencers](#)

**MARKET STUDIES**

[UK](#)

29/03/2023  
[The government's work on music streaming](#)

- The final report was published by the CMA in November, 2022.
- No market investigation took place because of it.

21/09/2022  
[Music and streaming market study](#)

- The CMA has launched a market study into music and streaming services.
- Responses to update paper were published.

[Japan](#)

09/02/2023  
[Market Study Report on Mobile OS and Mobile App Distribution](#)

**BLOGS/ARTICLES**

**Competition Law 360**

- [Meta's Response To Monopoly Claims: Since When?](#)
- [Google Can't 'Get Away' With Deleting Chats, Judge Says](#)
- [DOJ Files 2nd Google Suit In Latest Ad Tech Challenge](#)

**Talking Tech Article:**

- [ACCC digital platform services inquiry: implications from the latest interim report for digital platform service providers operating in Australia](#)



**CPI Antitrust Chronicle:**

- [Defining Platform Markets](#)
- [Emerging AI Regulatory Ecosystems: Implications for Businesses and Regulators](#)
- [Upward Pricing Pressure from Digital Platforms' Imposition of Take Rates on App Developers](#)

**[GCR: DG Comp officials explore metaverse antitrust enforcement](#)**

**Foss Patents:**

- [Apple's tardy removal of scam ChatGPT app: broken app review is strong argument for breaking App Store monopolies \(as Republican House majority intends\)](#)
- [Spotify, other app makers, and media companies urge EU antitrust chief Margrethe Vestager to take decisive action against Apple, other digital gatekeepers](#)

**Truth on the Market:**

**[Fixing the Procedural Infirmities in the DMA's Draft Implementing Regulation](#)**

**Bruegel**

- [Has the Digital Markets Act got it wrong on app stores?](#)
- [A model for a participative approach to digital competition regulation](#)

**Corporate Europe Observatory**

**[Spamming the regulator: How Big Tech's 'economic consultants' undermine EU competition policy](#)**

**European Competition Journal**

**Peter J. van de Waerdt : [From monocle to spectacles: competition for data and "data ecosystem building"](#)**

**PRESS**

02/03/2023

[Apple's App Store rules see consumers misled and overcharged, EU's Vestager says](#) – mlex

27/02/2023

[Meta Wants FTC To Explain How Facebook, TikTok Differ](#) - Competition Law 360

01/03/2023

[New posture' on digital mergers aims to avoid having to break up businesses, Vestager says](#) – GCR

26/02/2023

[EU Initiative To Regulate Metaverse Will Include Safety, Data Controls](#) - CPI

22/02/2023

[EU antitrust regulators to decide on Google's maths app buy by March 28](#) – Reuters

21/02/2023

[Microsoft signs binding Call of Duty deal with Nintendo ahead of EU Activision hearing](#)

16/02/2023

[Germany joins first EU Article 22 referral request in Adobe/Figma](#) - GCR

09/02/2023

[Japan's competition authority \(JFTC\) publishes study, finds Apple and Google to abuse superior bargaining position; recommended measures relate to third-party app stores, app tax, app review](#) - Foss Patents

02/02/2023

[Turkey opens fifth major Google probe](#) – GCR

01/02/2023

[Commerce Department Says Apple & Google's App Stores Wield 'Gatekeeper' Power](#) - CPI

28/01/2023

**US & EU Sign New Agreement On Artificial Intelligence - CPI**

25/01/2023

**Google Makes Changes To Android In India Over Antitrust Rulings – CPI**

19/01/2023

**Brazil's antitrust authority (CADE) opens full-blown investigations of Apple's App Store monopoly abuse further to complaints by Mercado Libre and Clique, regardless of low iPhone market share – Foss Patents**

11/01/2023

**Germany accuses Google of data processing breaches - GCR**

05/01/2023

**Meta hit with \$410 million in European fines over ad targeting – Marketwatch**

## CONFERENCES

17/04/2023

**IBA 32nd Annual IBA Communications and Competition Law Conference**

06/03/2023

**The DMA and app store related provisions - DG Comp DMA stakeholders workshops, material available [here](#).**

27/02/2023

**The DMA and interoperability between messaging services - DG Comp DMA stakeholders workshops, materials available [here](#).**