

Big Data & Competition Law

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Dechert

LLP

Data and Digital: Whirlwind of Reports



CHICAGO BOOTH  **Stigler Center**
for the Study of the Economy and the State



The Rt Hon Greg Clark MP
Secretary of State for Business, Energy and Industrial
Strategy
Department for Business, Energy and Industrial
Strategy,
1 Victoria Street,
London SW1H 0ET

From: The Rt Hon Lord Tyrie
Chairman
Direct line:
21 February 2019

Dear Greg,

Reports: Some Recommendations

- Data portability, possibly regulated data access in certain industries, or data trustees
- Establish an agency/unit dealing with ex-ante measures; or more ex-ante guidance from authorities to parties
- Firmer merger enforcement, also of “killer acquisitions”
- Greater and quicker use of interim measures
- Change burden of proof standard, e.g. “balance of harms”, or introduce new theories of harm
- Change review and appeal standards

EU: Vestager Stays On The Job

Executive Vice-President European Digital Agenda

Mission given by von der Leyen:

Lead the work on a Europe fit for the Digital Age

On data: “... how we can use and share non-personalised big data to develop new technologies and business models that create wealth for our societies and our businesses”



Commissioner for Competition

First speech as nominee:

“... as competition authorities we need to keep a close eye on the way that digital platforms deal with data – on how they collect data, and what they do [with] it. And we need to be prepared to take action ...”

(13 September 2019)

US: All Enforcers Want to Play a Part



POLITICS SEPTEMBER 6, 2019 / 2:27 PM / 11 DAYS AGO

U.S. states launch antitrust probes of tech companies, focus on Facebook, Google

The Telegraph

🏠 > Technology Intelligence

US launches monopoly investigation into tech giants including Facebook, Amazon and Google

FTC ramping up its Big Tech antitrust investigations



By [Brian Fung, CNN Business](#)

Updated 1853 GMT (0253 HKT) September 11, 2019

Data: More Enforcement?

European Commission - Press release

Antitrust: Commission opens investigation into possible anti-competitive conduct of Amazon

Brussels, 17 July 2019

Bundeskartellamt prohibits Facebook from combining user data from different sources

Date of issue: 07.02.2019



Data, AI and mobility may draw sector scrutiny in new EU Commission

22 Aug 19 | 09:56 GMT

Author: Lewis Crofts and Nicholas Hirst

Data is Everywhere: in Industries and Antitrust Debate



Data Raises Antitrust Challenges but also Creates Pro-Competitive Opportunities

- “Because in the digital world, data can be hugely valuable. It can help companies compete, by finding new ways to cut costs, or understanding better the needs of their customers. It’s the raw material that trains artificial intelligence to take faster and better decisions than humans”

- Source, *Margrethe Vestager Speech*, 13 September 2019

- “Better clinical outcomes from combination of medical and pharmacy claims data”

- Source, *Investor Presentation*, 3 December 2017 (CVS Health/Aetna merger)

- “The combination will eliminate silos in the healthcare system by combining medical data and pharmacy data, and CVS expects to generate substantial healthcare cost savings and improvements in patient outcomes”

- Source, *CVS Health public court filing*, 3 May 2019 (CVS Health/Aetna merger)

Some Steps to Mitigate Antitrust Risks

- Firewalls
- Clean teams
- Use restrictions
- Open platforms





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