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April 2021



## Competitive edge

### Keeping you up to date on Competition & EU law developments in Europe and beyond

Dear readers,

This month, we present two In Focus articles relating to competition law in the digital world. The first sets out how Germany, in the wake of the EU's Digital Markets Act proposal, adopted new rules to curb abuse of dominance in digital markets. The second article discusses competition law challenges for data sharing and artificial intelligence. Additionally, we invite you to find out what else is going on in various jurisdictions through our short country updates and to join us for the GCR Connect Sustainability & Cooperation conference at the end of April.

Best wishes,

*The Editorial Committee*

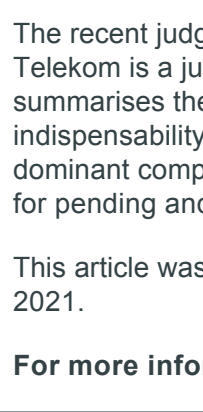
## In focus



**Jörg Witting**  
Partner  
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### New German antitrust rules to tackle digital markets

Earlier this year, on 19 January 2021, the 10th amendment of the German Act against Restraints of Competition was adopted. This introduces a new ex ante regime which complements the existing competition law framework governing the abuse of market dominance. The new regime aims to capture the "abusive" behaviour of undertakings designated as being "of paramount significance for competition across markets". [Read more](#)



**José Rivas**  
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Brussels  
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### Artificial Intelligence and Data Sharing

Competition partner José Rivas recently published an article with other members of Bird & Bird's [Digital Rights and Assets](#) team. The piece looks at how Data affects the global economy and outlines methods that organisations can adopt to share data more effectively. [Read more](#)

## Updates from our jurisdictions

### EU

#### The European Commission publishes the Results of the public consultation on the review of the Motor Vehicle Block Exemption Regulation

On 17 March 2021, the European Commission (EC) published a summary of the contributions on the review of the Motor Vehicle Block Exemption Regulation (MVBER) (Consultation). The MVBER is due to expire on 31 May 2023. The contributions will be used by the EC to determine... [Read more](#)

For more information contact [José Rivas](#) or [Ana Manzanque](#)

#### How Indispensable is the Indispensability Criterion in Cases of Refusal to Supply Competitors by Dominant Companies? (Slovak Telekom, C-165/19 P)

The recent judgment of the Court of Justice of the EU ("the CJEU") in Slovak Telekom is a judgment with significant implications. This article, first, summarises the main lessons from Slovak Telekom as regards the indispensability criterion in cases of refusal to supply competitors by dominant companies and, second, speculates on some likely consequences for pending and future cases. [Read more](#)

This article was published on the Kluwer Competition Law Blog on April 1st 2021.

For more information contact [José Rivas](#)

### Belgium

#### The Belgian Competition Authority sets out its key policy priorities for 2021

On 10 March 2021, the Belgian Competition Authority (BCA) published its Priority Policy Note for the year ahead. Impact of Covid-19: the BCA acknowledges that 2021 will be a year of recovery following the negative impact of the COVID-19 crisis on the Belgian economy... [Read more](#)

For more information contact [Hein Hobbelen](#)

### Czech Republic

#### Request for a CJEU preliminary ruling regarding the evidence disclosure under the EU Damages Directive

The Czech Supreme Court lodged a request for a preliminary ruling (Case C -57/21) on 1 February 2021 regarding evidence disclosure under the EU Damages Directive 2014/104/EU. In the proceedings before Czech courts, a privately-owned transportation company RegioJet a.s. sued the EU... [Read more](#)

For more information contact [Vojtech Chloupek](#) or [Jiří Švejda](#)

### Denmark

#### When does an agreement have as its purpose the restriction of competition?

The Danish High Court has affirmed that Article 6(1) of the Danish Competition Act (corresponding to Article 101(1) TFEU), was infringed by a natural gas company, Hovedstadsregionens og Midt-Nords Naturgasselskab I/S (HMN), the trade association and two subcontractors, as... [Read more](#)

For more information contact [Morten Nissen](#) or [Alexander Bröchner](#)

### France

#### A sandwich cartel case, or how leniency can get you out of a pickle

The French Competition Authority (FCA) recently fined the three main French manufacturers of sandwiches for mass retail distribution for having implemented a volume and customer allocation plan over a six-year period and agreed on the price level to be offered to their customers... [Read more](#)

For more information contact [Florence Leroux](#) or [Elliott Costet](#)

### Germany

#### "Combat" against competition crime and Covid19 - German Competition Register and VCI Emergency Platform for vaccination equipment are online

The Federal Cartel Office (FCO) has recently launched the German Competition Register for Public Procurement and approved the participation of pharmaceutical wholesalers in the VCI Emergency Platform for vaccination equipment - two important steps in fighting white-collar crime... [Read more](#)

For more information contact [Marcio da Silva Lima](#) or [Maren Steiert](#)

### Italy

#### Hoffman-La Roche - Novartis dispute over Avastin drug referred back to the ECJ for the second time

On 18 March 2021, the Italian Supreme Administrative Court (Consiglio di Stato or CdS) wrote a new episode in the long-lasting Hoffman La Roche - Novartis saga related to the Avastin drug, which may have serious repercussions on the relationship between EU and national... [Read more](#)

For more information contact [Federico Marini Balestra](#)

### Singapore

#### Prospective Changes to CCCS' Guidelines on the Substantive Assessment of Mergers

The Competition and Consumer Commission of Singapore (CCCS) has proposed updates to several of its guidelines. Among these, are updates to the Guidelines on the Substantive Assessment of Mergers. The proposed amendments are likely to have great impact on digital and... [Read more](#)

For more information contact [Sandra Seah](#) or [Jonathan Kao](#)

### Spain

#### CNMC clears Bankia-CaixaBank merger with conditions

The Spanish Competition authority (CNMC) has cleared CaixaBank's acquisition of state-owned financial entity Bankia in phase I, subject to conditions. This transaction gives rise to the merger between the third and the fourth largest financial entities in Spain, with 660 billion... [Read more](#)

For more information contact [Candela Sotés](#).

### Sweden

#### Competition on the market for digital platforms in Sweden

In February 2021 the Swedish Competition Authority (SCA) published a report which covers the increasing influence of digital platforms within the field of competition law. This brief article discusses the themes and findings of the report... [Read more](#)

For more information contact [Morten Nissen](#) or [Alexander Bröchner](#)

### The Netherlands

#### Dutch competition authority signals bottlenecks in access for MaaS providers to public transportation services

On 8 March 2021, the Authority for Consumers & Markets (ACM) published its market study into the access for Mobility as a Service (MaaS) providers to public transportation services in the Netherlands. A MaaS platform integrates various methods of transport across different providers which... [Read more](#)

For more information contact [Piet-Hein Eijssen](#) or [Joost van Roosmalen](#)

### The UK

#### The Competition & Markets Authority's revised Merger Assessment Guidelines

In March 2021, the Competition & Markets Authority (CMA) published its revised Merger Assessment Guidelines (MAGs) along with a Quick Guide, complementing the revision of its Guidance on jurisdiction and procedure, which was published in December 2020... [Read more](#)

For more information please contact [Saskia King](#) or [Ariane Le Strat](#)

## Webinars & Events

**Silver Sponsor**  
**Bird & Bird**

**Speaker**  
**Morten Nissen**  
Bird & Bird

### Proud to sponsor conference on Sustainability and Cooperation

Wednesday 28 April, 15:00 - 18:00 CET

Join Co-head of our Competition & EU Group [Morten Nissen](#) at the upcoming **GCR Connect: Sustainability and Cooperation - Greenwashing or Virtue-Signalling** conference.

Topics to be discussed in this virtual half-day event include:

- Where are we and where to next?
- Sustainability collaborations that don't restrict competition
- When collaborations do restrict competition, can they be exempt? And what are the real costs?
- Test cases and guidance or regulation: where do we go from here?
- What's next? From theory to action

See the full programme [here](#).

Participation is **free** for in-house counsel and government representatives.

Register for the event [here](#).

**Green Advertising: current challenges and future outlook**

Webinar recording now available

Watch the recording of our recent webinar that covered the Do's and Don'ts of Green Advertising. Bird & Bird's multidisciplinary team of sustainability experts (including London Competition associate [Ariane Le Strat](#)):

- Provides an outlook on European initiatives on green advertising
- Showcases the current legal situation in selected European countries
- Gives practical guidance on opposing non-compliant uses by competitors
- Highlights actions of the UK CMA and the Dutch ACM, as well as ongoing litigation in France.

Read more about the webinar and see the speakers [here](#).

## Bird & Bird news

Our Competition & EU practice has been ranked by the **Legal 500 2021** in **Belgium** (Brussels), **Denmark**, **Finland**, **Germany**, **Hungary**, **Italy**, the **Netherlands**, **Spain** and the **UK**.

**Bird & Bird & Competition & EU group**  
**Legal 500 EMEA 2021**

*'Very hands on and knowledgeable about the industry and eager to understand client business.'*

*'Always a very professional team. Felt very secure and in good hands.'*

*'Competent, objective, reflective, without imposing one's own positions'*

A big thank you to our clients for your support and for placing your trust in our team! Our Competition lawyers recognised by the Legal 500 include (from top left): [Pauline Kuipers](#), [Mikkel Taanum](#), [José Rivas](#), [Scott McInnes](#), [Ana Manzanque](#), [Ariane Le Strat](#), [Janneke Kohlen](#), [Katia Duncker](#), [Anne Federle](#), [Brona Heenan](#), [Jörg Witting](#), [Federico Marini Balestra](#), [Candela Sotés](#), [Morten Nissen](#), [Päivi Tammihehto](#), [Hein Hobbelen](#), [Baptist Vleeshouwers](#), [Peter Willis](#), [Lucia Antonazzi](#) and [László Zlatarov](#).

**Private Competition Enforcement Review**

Partners [Peter Willis](#), [Jonathan Speed](#) and [Thomas Oshane](#) have contributed to the **England and Wales** and **France** chapters of the **Private Competition Enforcement Review** (14th edition) published by The Law Reviews.

Purchase your copy or read the full publication online [here](#).

**Bird & Bird compliance tools submitted for Concurrence's Antitrust Compliance Awards**

The independence antitrust publisher **Concurrences** has launched an Antitrust Compliance Awards initiative to promote competition law compliance and to contribute to antitrust advocacy.

The awards will select the most innovative antitrust compliance initiatives in the following categories:

- Agency Award: Best Antitrust Compliance Initiatives
- Academic Award: Best Antitrust Compliance Initiatives
- Corporation Award: Best Antitrust Compliance Initiatives
- Law Firm Award: Best Antitrust Compliance Initiatives
- Legal Tech Award: Best Antitrust Compliance Initiatives
- Grand Jury Award
- Special Award
- Readers Award

Read more about the Antitrust Compliance Awards initiative [here](#)

Vote for Bird & Bird's Antitrust Compliance toolkit submission [here](#).

Click on the banner to visit the webpage for more information on the tool.

**Bird & Bird Dawn Raid Management Tool**

The simple and secure way to manage a dawn raid

Powered by **safeREACH**

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