EDITORIAL

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Editorial

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General Editor

Is the European competition legal framework adequate to scrutinise digital markets? The question, discussed for a long time in the literature, remains open to debate and is nowadays a priority for most competition authorities.

The Editorial Board is pleased to present the second issue of Volume VI of the Market and Competition Law Review, which intends to gather valuable contributions to answer this question.

The first article, written by Luca Megale, argues that a new digital world is emerging. Metaverse – the 3D virtual world parallel to the physical one – is increasingly becoming part of our lives, raising competition concerns, even though it is hard to investigate and punish those activities. The article begins by focusing on the possible application of competition law to the metaverse, analysing specific issues: essential facility doctrine, collusion, M&A, and data exploitation. Then, it discusses whether regulators should intervene or wait for the market to develop, suggesting several remedies to address competition concerns.

Continuing with a technology-based article and establishing a link with the importance of the metaverse construction, Alba Ribera Martinez analyses the video gaming sector, which competition law authorities have traditionally overlooked. The Author recognises that recent developments in the industry's output, such as the introduction of cloud gaming and subscription video gaming services, have contributed to diluting the market's definition. By searching for this definition and addressing the problems

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involved in the process, Ribera Martinez uses *Microsoft/Activision Blizzard* as a benchmark to evaluate the impact of future acquisitions in the video gaming industry.

Thirdly, Niccolò Galli addresses the process of patent prosecution in the information and communication technology sector under Articles 101 and 102 TFEU. The Author classifies it as a 'bad dream' due to entry barriers and anti-competitive practices, such as substantial costs and timing, as well as a concentration of granted patents in the sphere of a few large undertakings. Nevertheless, the article recognises the limited scope of Art. 101 and 102 and their jurisprudence do not contribute to changing the scenario; as a consequence, competition law remains a remote solution for the ICT patent conundrum.

From an administrative perspective, Riina Autio goes through the unannounced inspections carried out by the national competition authorities that seek to guarantee the correct application of competition law. The Author analyses the issue from the point of view of the lack of harmonisation and uneven enforcement practices among EU Member States. The article sees these disparities as a potential threat in an area that serves as a crossroads between competition law and fundamental rights, which is not solved despite the efforts of the ECN+ Directive.

Lastly, tying the knot between the procedural side of competition law and the technological/digital sector and the Big Techs, Nathalie Nielson analyses the petitions presented by Amazon and Facebook for recusal of Chair Lina M. Khan and the petitions filed by Google for the recusal of the Assistant Attorney General Jonathan Kanter in antitrust matters pending against these companies due to their potential partiality. The article suggests that these petitions are not a simple matter of due process, but try to reduce the efficiency of the public enforcement of American antitrust law, which may compromise its effectiveness.

The last section of this issue is devoted to two book reviews. Catarina Vieira Peres de Fraipont reviews "The Impact of the Damages Directive on the Enforcement of EU Competition Law", by Philipp Kirst, edited in 2021. And Nuno Castro Marques brings us a review of the book "Populism and Antitrust: The Illiberal Influence of Populist Government on the Competition Law System", written by Maciej Bernatt and published this year.