



OECD-GVH Regional Centre
for Competition in Budapest (Hungary)

ANNUAL ACTIVITY REPORT

2023



HUNGARIAN
COMPETITION
AUTHORITY

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Introduction and organisational setup

The OECD-GVH Regional Centre for Competition in Budapest (RCC) was established in February 2005 by the Organisation for Economic Co-operation and Development (OECD) and the Hungarian Competition Authority (GVH) through a Memorandum of Understanding to foster the development of competition law, competition policy, and competition culture in the South-East, East and Central European regions and to thereby contribute to economic growth and prosperity in these regions. Its main aim is to provide capacity-building assistance and policy advice through workshops, seminars and trainings on competition law for enforcement officers and national judges. The RCC also works to strengthen competition law and policy in Hungary and in the GVH itself.

It is important to highlight that the RCC is a joint initiative – it is run by a senior competition expert at the OECD headquarters in Paris and by a consultant who is an employee of the GVH in Budapest. The work of the RCC is therefore based on the expertise of both institutions: the OECD Academic director is responsible for preparing the professional programme of the events and inviting experts, whereas the GVH provides the technical background and logistical support. The founding parties make joint decisions and meet annually to review the operation and performance of the RCC. As far as funding is concerned, the GVH is responsible for providing most of the funding necessary for the successful and smooth operation of the RCC and makes an annual voluntary contribution to the OECD for the costs related to the staff position in Paris, while the OECD helps to co-fund the activities. Moreover, they cooperate in their efforts to obtain additional financial support from third parties.

The RCC has sixteen beneficiary competition authorities, including Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kosovo¹, Kyrgyzstan, Moldova, Montenegro, North Macedonia, Romania, Serbia and Ukraine. Moreover, participants were invited to the seminars from the Eurasian



Economic Commission (EEC) and Uzbekistan in 2023. The work targeting these institutions is considered to be the core activity of the RCC, which has enabled these countries to make significant progress in developing their competition law and policy. Nonetheless, capacity-building needs vary among the involved non-OECD member economies and this calls for a broad approach to competition outreach work, including:

- enhancing analytical skills in competition law enforcement,
- drawing the attention of the judiciary to the specificities of competition law adjudication,
- pro-competitive reform in infrastructure sectors,
- competition advocacy,
- relations between competition authorities and sector regulatory agencies,
- legal and institutional reform in the area of competition, and
- building international co-operation and networking.

Judges represent a relevant target group of the activities of the RCC. Therefore two seminars were organised for judges of the European Union with the financial support of the European Commission. They provide a great opportunity for national judges to enhance their knowledge of competition law and economics, exchange views on the latest developments in EU competition law and discuss the main challenges in competition law cases.

Another beneficiary of the RCC's core activities is the GVH itself as the RCC organises a workshop for its staff every year to learn about the latest antitrust theories and enforcement practices.

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the Advisory Opinion of the ICJ on Kosovo's declaration of independence. Hereinafter referred to as Kosovo.

Description of the Activity of the RCC

1. The seminars of the OECD-GVH RCC

A. 2023 seminars in numbers

In 2023, the RCC organised seven seminars, out of which three core seminars in Budapest with the participation of the sixteen beneficiary competition authorities, one seminar in Baku in cooperation with the State Service for Antimonopoly and Consumer Market Control, one seminar for staff from

the GVH and two seminars for judges of EU member states (with the financial support of the European Commission).

The RCC seminars hosted 272 participants from 33 institutions and 48 speakers from 27 institutions over the course of the year, as shown by the graphs below:

Chart 1: Total number of participants per beneficiary competition authorities in 2023

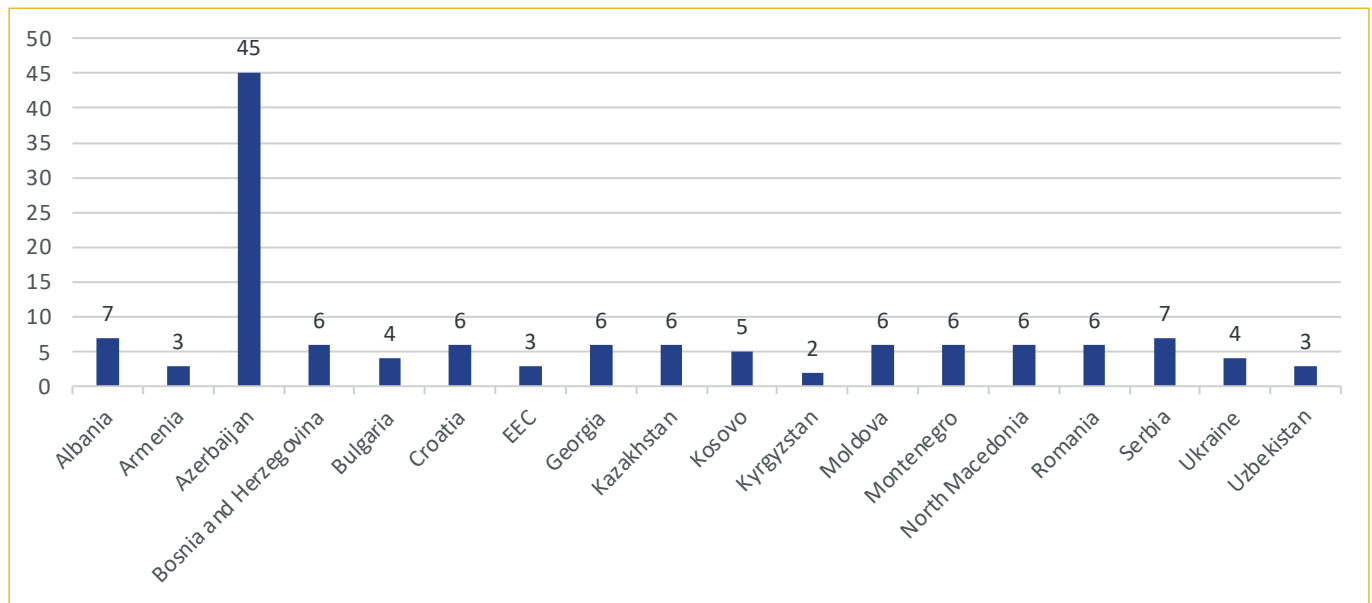


Chart 2: Total number of participating judges per EU Member States in 2023

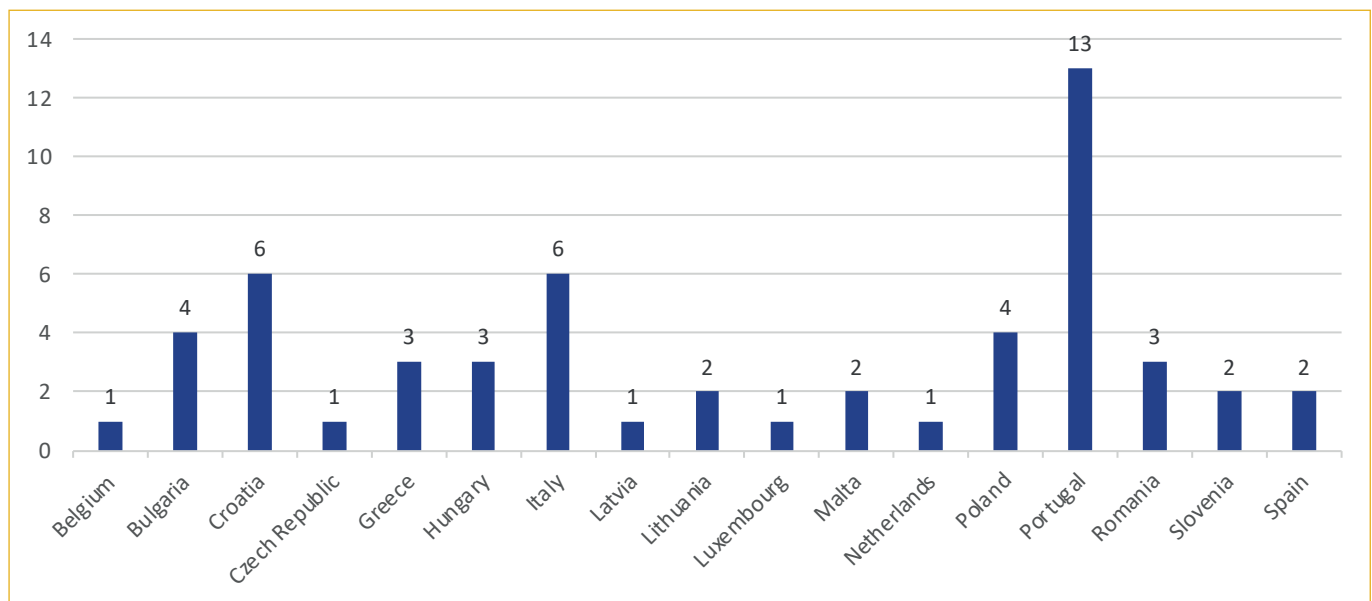
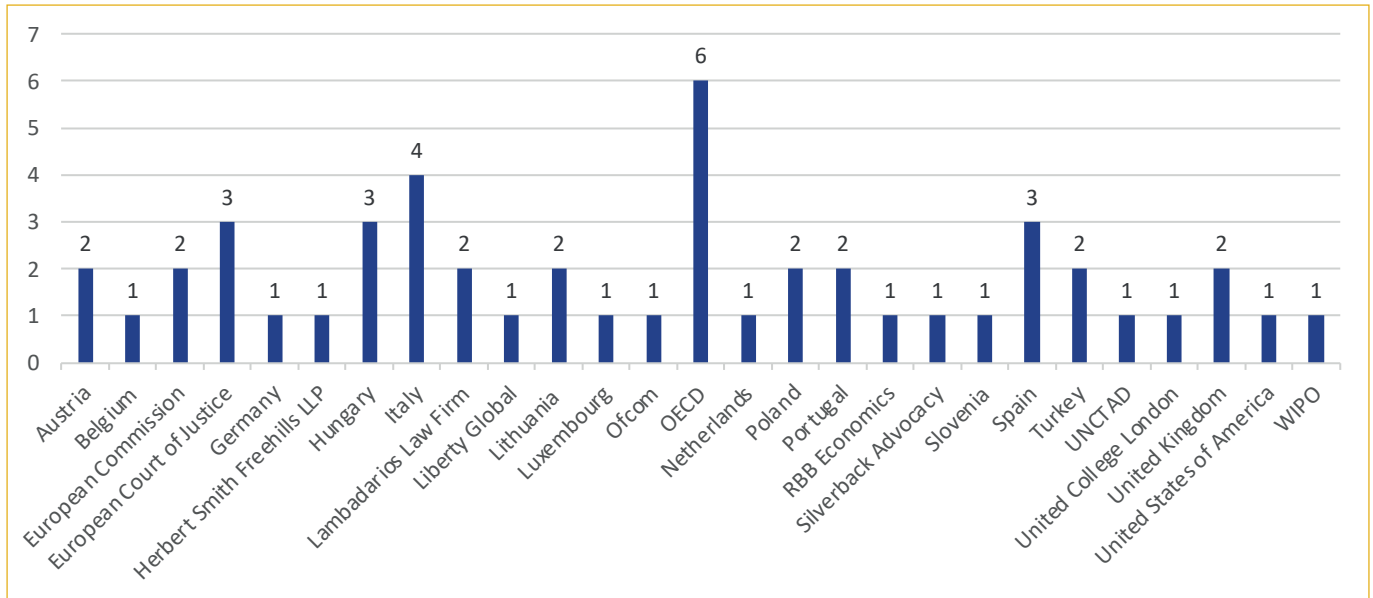


Chart 3: Total number of speakers per country/institution in 2023



B. Overview of the seminars in 2023

We provide a detailed overview of the RCC seminars in 2023, with reference to the topic, date and location of each seminar, the total number of participants and the participating institutions.

Table 1: Overview of Seminars in 2023

Topic	Date and location	Total number of participants	Participating institutions
Ordinary RCC Seminar on Merger control in times of uncertainty	14-16 February 2023 Budapest, Hungary	30 participants 5 speakers 4 organisers 2 interpreters	Beneficiaries: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, EEC, Georgia, Kazakhstan, Kosovo, Moldova, Montenegro, North Macedonia, Romania, Serbia, Ukraine Speakers: Hungary, Lithuania, OECD, Portugal, Spain
Ordinary RCC Seminar on Intellectual property rights and competition policy: friends or foes?	28-30 March 2023 Budapest, Hungary	37 participants 5 speakers 2 organisers 2 interpreters	Beneficiaries: Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, EEC, Georgia, Hungary, Kazakhstan, Kosovo, Moldova, Montenegro, North Macedonia, Romania, Serbia, Ukraine, UNCTAD Speakers: Austria, OECD, Spain, UNCTAD, United States, WIPO
Comp Lab for Judges co-funded by the European Commission Stepping up with the fundamentals of competition law: key developments in digital markets and regulated industries	30-31 May 2023 Budapest, Hungary	28 participants 7 speakers 3 organisers	Beneficiaries: Belgium, Bulgaria, Croatia, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovenia, Spain Speakers: European Court of Justice, Herbert Smith Freehills, Italy, Lambadarios Law Firm, Liberty Global, Luxembourg, Spain
Joint RCC-State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan Seminar on Competition advocacy	19-21 September 2023 Baku, Azerbaijan	52 participants 7 speakers 2 organisers 2 interpreters	Beneficiaries: Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, North Macedonia, Romania, Serbia Speakers: Hungary, Italy, Lithuania, Netherlands, OECD, Poland, Silverback Advocacy
GVH Staff Training on Innovation	3-4 October 2023 Budapest, Hungary	72 participants 9 speakers 2 organisers	Beneficiaries: GVH staff Speakers: European Commission, European Court of Justice, Italy, OECD, Poland, RBB Economics, United Kingdom
Comp Lab for Judges co-funded by the European Commission Stepping up with the economics of competition law: between competition and regulation	30 November – 1 December 2023 Budapest, Hungary	27 participants 7 speakers 3 organisers	Beneficiaries: Bulgaria, Croatia, Czech Republic, Greece, Hungary, Italy, Malta, Poland, Portugal, Romania Speakers: Belgium, European Court of Justice, Italy, Lambadarios Law Firm, Ofcom, OECD, United College London
Ordinary RCC Seminar on Detection tools	12-14 December 2023 Budapest, Hungary	26 participants 8 speakers 2 organisers	Beneficiaries: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Moldova, Montenegro, North Macedonia, Romania, Serbia, Uzbekistan Speakers: Austria, Germany, Hungary, OECD, Portugal, Slovenia, Turkey



C. Detailed reference to RCC seminars

Ordinary RCC Seminar:

Merger control in times of uncertainty.

Budapest, Hungary, 14-16 February 2023

Seminar objectives

Merger control is a forward-looking exercise that requires a complex skillset, even more so in times of uncertainty. This seminar focused on theories of harm in merger cases, basic economic methods, investigative steps, and effective merger remedies. Particular emphasis was placed on the adequate, timely management of innovation. Merger control experts from OECD member countries presented case studies, and participants had the opportunity to practise their skills in hypothetical exercises.

The speakers



María Pilar Canedo Arrillaga

Member of the Board
Spanish National Markets and
Competition Commission (CNMC)



Ana Sofia Rodrigues

Chief Economist & Head of the Studies
and Market Monitoring Bureau
Portuguese Competition Authority



Ieva Jakubavičienė

Head of Mergers Supervision Group
Lithuanian Competition Council



Péter Decsák

Case Handler
Hungarian Competition Authority (GVH)



Renato Ferrandi

Senior Competition Expert & Coordinator
of OECD -GVH training activities
OECD

Agenda

Tuesday, 14 February 2023	
09.00-10.00	OPENING REMARKS, GROUP PHOTO, TOUR DE TABLE Mr. László Bak, Vice-President of the GVH Mr Renato Ferrandi Coordinator of OECD-GVH training activities
10.00-10.45	MERGER CONTROL: INTRODUCTION AND NEW CHALLENGES Navigating in uncharted waters Mr Renato Ferrandi (OECD, Paris)
10.45-11.00	Coffee break
11.00-11.45	CAPTURING THE RELEVANT MERGERS Legal notion of control, thresholds Ms María Pilar Canedo, Spain
11.45-12.30	THEORIES OF HARM Horizontal, vertical and conglomerate mergers Ms Ieva Jakubavičienė, Lithuania
12.30-14.00	Lunch
14.00-15.00	CASE STUDIES IN EASTERN EUROPE Experience and challenges in the region Participants
15.00-15.15	Illustration of a hypothetical case Mr Renato Ferrandi, Italy
15.15-15.30	Coffee break
15.30-17.00	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Welcome dinner
Wednesday, 15 February 2023	
09.30-10.45	MARKET DEFINITION Traditional methods and novel issues Ms Ana Sofia Rodrigues, Portugal
10.45-11.00	Coffee break
11.00-11.45	LISTENING CAREFULLY What the merging parties do and do not say Ms Ieva Jakubavičienė, Lithuania
11.45-12.30	PROHIBITION OR REMEDIES? How to address a restrictive merger Mr Péter Decsák, Hungary
12.30-14.00	Lunch
14.00-15.00	PROCEDURAL ISSUES The key steps of an effective merger review Ms María Pilar Canedo, Spain
15.00-15.15	Illustration of a hypothetical case Mr Renato Ferrandi
15.15-15.30	Coffee break
15.30-17.00	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Dinner

Thursday, 16 February 2023	
09.30-10.45	MERGERS IN DIGITAL MARKETS AND INNOVATION Specificities and cautions Ms Ana Sofia Rodrigues, Portugal and Mr Péter Decsák, Hungary
10.45-11.00	Coffee break
11.00-12.00	LESSONS LEARNED ON MERGER REVIEW Issues and solutions Mr Renato Ferrandi and speakers
12.00-13.00	CLOSING SESSION
13.00-14.00	Lunch
19.00-21.00	Dinner



Ordinary RCC Seminar:

Intellectual property rights and competition policy: friends or foes?

Budapest, Hungary, 28-30 March 2023

Seminar objectives

The main goal of intellectual property rights (IPR) is to protect investments in research and creative activities. Digitalisation has greatly increased the importance of intangible assets and IP rights have taken on a prominent role. The seminar explored the circumstances in which IP rights can give rise to competition concerns and how the competition community could address these concerns without undermining firms' incentives to invest and innovate.

The speakers



María Pilar Canedo Arrillaga

Member of the Board
Spanish National Markets and
Competition Commission (CNMC)



Garrett Windle

Attorney Advisor
– US Department of Justice



Teresa Moreira

Head of the Competition and Consumer
Policies Branch – UNCTAD



Giovanni Napolitano

Director, Intellectual Property and
Competition Policy – WIPO



Lisa Schwarz

Case Handler – Austrian
Competition Authority



Renato Ferrandi

Director, International Affairs –
Italian Competition Authority

Agenda

Tuesday, 28 March 2023	
09.00-10.00	OPENING REMARKS, GROUP PHOTO, TOUR DE TABLE Mr István Hantosi, Deputy Head of the Public Service and International Section, GVH Renato Ferrandi, former Coordinator of OECD-GVH training activities
10.00-10.45	IP RIGHTS AND COMPETITION Key policy and enforcement issues, the OECD initiatives Renato Ferrandi, Italian Competition Authority
10.45-11.00	Coffee break
11.00-11.45	COMPETITION ENFORCEMENT AND IP RIGHTS Landmark cases in the EU Lisa Schwarz, Austrian Competition Authority
11.45-12.30	ONLINE PLATFORMS AND IP RIGHTS New challenges for competition policy Giovanni Napolitano, WIPO
12.30-14.00	Lunch
14.00-15.00	THE ROLE OF IP RIGHTS IN EMERGING ECONOMIES The perspective of UNCTAD Teresa Moreira, UNCTAD
15.00-15.15	Illustration of a hypothetical case Renato Ferrandi, Italian Competition Authority
15.15-15.30	Coffee break
15.30-17.00	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Dinner
Wednesday, 29 March 2023	
FOCUS: THE PHARMACEUTICAL SECTOR	
10.00-10.15	Introduction: innovation as a crucial concern Renato Ferrandi, Italian Competition Authority
10.15-11.00	Issues and landmark cases involving IP rights Lisa Schwarz, Austrian Competition Authority
11.00-11.30	Discussion Led by Maria Pilar Canedo, CNMC Spain, and Giovanni Napolitano, WIPO
11.30-11.45	Coffee break
11.45-12.30	USE AND ABUSE OF IP RIGHTS The line between legitimate and unlawful IP protection in the Spanish practice Ms Maria Pilar Canedo, CNMC Spain
12.30-14.00	Lunch
14.00-15.00	COMPETITION POLICY AND IP RIGHTS IN THE US The experience of the U.S. Department of Justice Mr Garrett Windle, U.S. Department of Justice (virtual presentation)
15.00-15.15	Illustration of a hypothetical case Mr Renato Ferrandi
15.15-15.30	Coffee break
15.30-17.00	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Dinner

Thursday, 30 March 2023

10.00-10.45	IP AND COMPETITION GUIDELINES WIPO's initiatives and inter-agency cooperation Mr Giovanni Napolitano, WIPO
10.45-11.00	Coffee break
11.00-12.00	IP RIGHTS AND COMPETITION POLICY: FRIENDS OR FOES? Lessons learned and open debate Speakers and participants
12.00-13.00	CLOSING SESSION
13.00-14.00	Lunch
15.45-16.30	Visit to the Parliament
19.00-21.00	Dinner



Competition Lab for Judges:

Stepping up with the fundamentals of competition law: key developments in digital markets and regulated industries.

Budapest, Hungary, 30-31 May 2023



Co-funded by the
European Union

Seminar objectives

The seminar elaborated on key developments in the notions of market power, dominance and abuse, in both traditional and digital markets, with reference to legislative texts, case law and the decision-making practice of competition authorities. It then focused on regulated markets and examined key developments in the pharmaceutical, telecommunications and energy industries under Articles 101, 102 TFEU. The seminar received financial support from the European Union.

The speakers



Tihamér Tóth

Judge, General Court, Court of
Justice of the European Union



María Pilar Canedo Arrillaga

Member of the Board
Spanish National Markets and
Competition Commission (CNMC)



Renato Ferrandi

Director of International and EU Affairs,
Italian Competition Authority



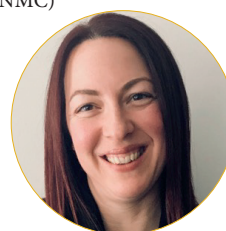
Melina Pappa

Director of Competition
Policy, Liberty Global



Sven Frisch

Member, Luxembourg
Competition Authority



Lefkothea Nteka

Partner
Lambadarios Law Firm



Peter Rowland

Of Counsel,
Herbert Smith Freehills LLP

Agenda

Tuesday, 30 May 2023	
09.00-09.15	Welcome remarks, Group photo Csaba Balázs Rigó, President of the Hungarian Competition Authority
09.15-09.30	Questionnaire exercise – What do you think?
09.30-10.30	Assessing market power and dominance Renato Ferrandi, Italian Competition Authority
10.30-10.45	Coffee break
10.45-12.00	Assessing market power and dominance in digital markets Lefkothea Nteka, Lambadarios Law Firm
12.00-12.30	Questionnaire exercise / Quiz – Am I dominant?
12.30-14.00	Lunch
14.00-15.15	Recent key developments and case law in abuse of dominance cases María Pilar Canedo, Spanish National Markets and Competition Commission
15.15-15.30	Coffee break
15.30-16.30	Key developments and case law in abuse of dominance cases in digital markets Sven Frisch, Luxembourg Competition Authority
16.30-17.30	Hypothetical Case Exercise
19.00-22.00	Welcome dinner
Wednesday, 31 May 2023	
09.15-10.45	Key developments and case law in pharmaceuticals markets Peter Rowland, Herbert Smith Freehills LLP
10.45-11.00	Coffee break
11.00-12.30	Key developments and case law in telecommunications markets Melina Pappa, Liberty Global
11.30-11.45	Coffee break
12.30-14.00	Lunch
14.00-15.15	Key developments and case law in energy markets Tihamér Tóth, Court of Justice of the European Union
15.15-15.30	Coffee break
15.30-16.30	Hypothetical Case Exercise
16.30-17.00	Kahoot game!
17.00-17.15	Questionnaire exercise – What do you think now?

RCC-State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan: Competition advocacy

Baku, Azerbaijan, 19-21 September 2023

Seminar objectives

Competition advocacy is a very strong power in the hands of competition agencies, covering a wide variety of mechanisms to promote competition in society, in particular in relation to administration, regulation, and public powers. This seminar discussed the aim of advocacy of competition, its most powerful tools and the pros and cons of each of them. In addition, it touched upon the main features of advocacy tools and elaborated on some successful examples.

The speakers



Jafar Babayev

Deputy Head of the State Service for Antimonopoly and Consumer Market Control of Azerbaijan



María Pilar Canedo Arrillaga

Coordinator of OECD-GVH training activities



Renato Ferrandi

Director of International and EU Affairs, Italian Competition Authority



Medeina Augustinavičienė

Council Member, Competition Council of Lithuania



Daniel Mankowski

Head of Legal Department, Office of Competition and Consumer Protection of Poland



Bart Noe

Senior Strategy Advisor, Dutch Authority for Consumers and Markets



Anna Fekete

Case Handler, Hungarian Competition Authority



Juan Espinosa

Founding Partner, Silverback Advocacy

Agenda

Tuesday, 19 September 2023	
09.00-10.00	OPENING REMARKS. GROUP PHOTO. TOUR DE TABLE Jafar Babayev, Deputy Head of the State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan, María Pilar Canedo, Coordinator of OECD-GVH training activities
10.00-10.45	ADVOCACY OF COMPETITION Introduction to the concept and main tools María Pilar Canedo, Coordinator of OECD-GVH training activities
10.45-11.00	Coffee break
11.00-11.45	THE RELATIONSHIP BETWEEN COMPETITION AND ENFORCEMENT – OECD TOOLKITS María Pilar Canedo, Coordinator of OECD-GVH training activities
11.45-12.45	PRINCIPLES OF BETTER REGULATION AND COMPETITIVE NEUTRALITY Medeina Augustinavičienė, Competition Council of the Republic of Lithuania
12.45-14.00	Lunch
14.00-14.45	COMPETITION ASSESSMENT IN ITALY: Powers and lessons learnt Renato Ferrandi, Italian Competition Authority
14.45-15.00	ILLUSTRATION OF A HYPOTHETICAL CASE María Pilar Canedo, Coordinator of OECD-GVH training activities
15.15-15.30	Coffee break
15.15-16.45	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Welcome dinner
Wednesday, 20 September 2023	
10.00-10.15	COMPETITION ASSESSMENT IN DIGITAL MARKETS: Examples in Italy Renato Ferrandi, Italian Competition Authority
10.45-11:45	ADVOCACY OF COMPETITION LAW: The Dutch approach Bart Noe, Authority for Consumers and Markets (virtual presentation)
11.45-12.00	Coffee break
12.30-13.00	MONITORING ADVOCACY STRATEGIES AND REINFORCING MARKET INSTITUTIONS Medeina Augustinavičienė, Competition Council of the Republic of Lithuania
13.00-14.00	Lunch
14.00-15.00	MARKET STUDIES: THE RELEVANCE OF ECONOMIC ANALYSIS IN ADVOCACY How advocacy is perceived in the administration and the legislative power Juan Espinosa, Silverback Advocacy (virtual presentation)
15.00-15.30	ACCELERATED MARKET INQUIRIES Anna Fekete, Hungarian Competition Authority
15.30-15.45	Coffee break
15.45-17.00	ILLUSTRATION OF A HYPOTHETICAL CASE María Pilar Canedo, Coordinator of OECD-GVH training activities BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
19.00-21.00	Dinner

Thursday, 21 September 2023	
10.00-10.45	How to identify competition barriers in legislation and ways to fight them Daniel Mankowski, Office of Competition and Consumer Protection
10.45-11.00	Coffee break
11.00-11.45	Competition as a tool to reach non-market objectives Anna Fekete, Hungarian Competition Authority
11.45-12.15	CLOSING SESSION Summary and Kahoot game
12.15-14.00	Lunch
19.00-21.00	Dinner



GVH Staff Training:

Innovation and Competition.

Budapest, Hungary, 3-4 October 2023

Seminar objectives

The seminar explored the challenges facing competition authorities in the area of digitalisation and innovative market. The GVH staff had the opportunity to exchange views with representatives from advanced European competition authorities and antitrust experts. The first day was dedicated to the structured presentations by the speakers, while the second day was organised in informal break-out sessions during which the different sections of the GVH could freely discuss current issues.

Agenda

Tuesday, 3 October 2023	
09.00–09.15	Welcome and opening remarks Csaba Balázs Rigó, President of the GVH
09.15–09.30	Introduction to the Seminar María Pilar Canedo, Coordinator of the OECD-GVH Regional Centre for Competition
09.30–10.30	Recent developments on DMA Pierre Bichet, European Commission
10.30–10.45	Coffee break
10.45–12.15	Artificial intelligence, consumers and competition Ryan White and Abigail Crisswell, Competition and Markets Authority
12.15–13.30	Lunch
13.30–14.15	Theories of harm and innovation Miguel de la Mano, RBB Economics
14.15–15.00	Introducing innovation and economic analysis in antitrust cases Antonio Buttá, Italian Competition Authority
15.00–15.30	Coffee break
15.30–16.15	Mergers and innovation at the EU: Illumina Grail and the Pharma sector Zsolt Vertessy, European Commission
16.15–17.00	Consumers and innovation in the digital era Katarzyna Araczevska, Office of Competition and Consumer Protection
17.00–17.45	New data access obligations and innovation – friends or foes? Mariya Serafimova, Court of Justice of the European Union
17.45–18.15	Closing remarks and Gender balance OECD toolkit

Wednesday, 4 October 2023
BREAKOUT SESSIONS

Time	Competition Council	Antitrust Section	Merger Section	Cartel Section	Consumer Protection Section	Competition Economics
09.30–10.30	Market definition and negotiation with those companies Digital platforms Amazon case	Competition within the ecosystems – reference to the Amazon case	Non-horizontal mergers and innovation theories of harm	Unannounced inspections and their challenges Digital evidence collection Ex-officio cartel detection New investigative tools	Dark patterns and their impact on consumers Green claims Polish perspective	Recommender system Algorithmic collusion Impact on competition
	Pierre Bichet	Antonio Buttá	Miguel de la Mano	Mariya Serafimova	Katarzyna Araczevska	Ryan White Abigail Crisswell
10.30–11.00	Coffee break					
11.00–12.00	Overview of recent cases of the ECJ	Technological advances Unannounced inspection and its challenges (digital evidence collection)	Market definition: digital and pharma markets	Investigative approaches: economic perspective	The consumer model in the digital world – average vs vulnerable	Privacy, competition and consumer protection
	Mariya Serafimova	Pierre Bichet	Zsolt Vertessy	Miguel de la Mano	Katarzyna Araczevska	Antonio Buttá
12.00–13.00	Lunch					
13.00–14.00	Digital markets – how they are changing our approach	Article 102 TFEU – new legal standards for the assessment of conduct	Article 22 referrals Examples and solutions	The latest tools, how they work in practice	Online choice Architecture and green claims	How to quantify theories of harm and some of the methods available
	Katarzyna Araczevska María Pilar Canedo	Mariya Serafimova	Zsolt Vertessy	Pierre Bichet	Ryan White Abigail Crisswell	Miguel de la Mano



Competition Lab for Judges:

Stepping up with the economics of competition law: between competition and regulation.

Budapest, Hungary, 30 November-1 December 2023



Co-funded by the European Union

Seminar objectives

This seminar primarily focused on the economic concepts underlying competition law enforcement in digital markets and regulated sectors. Through case law examples and developments, the seminar discussed the abuse of market power, theories of harm, and the dimensions of competition in digital and regulated markets, further addressing the impact of regulation on the competitive landscape. It is important to note that the seminar received financial support from the European Union.

The speakers



Lefkothea Nteka
Partner
Lambadarios Law Firm



Renato Ferrandi
Director, International Affairs –
Italian Competition Authority



Maria Pilar Canedo Arrillaga
Member of the Board
Spanish National Markets and
Competition Commission (CNMC)



Despoina Mantzari
Associate Professor in Competition
Law and Policy, UCL Laws



Alfredos Theodorakopoulos
Referendaire
Court of Justice of the European Union



Griet Jans
Chief Economist
Belgian Competition Authority



Hugh Mullan
Director
Ofcom

Agenda

Thursday, 30 November 2023	
09.00-09.30	Welcome remarks, Group photo Csaba Balázs Rigó, President of the Hungarian Competition Authority
09.30-09.45	Questionnaire exercise – What do you know?
09.45-10.45	The economics of market power and dominance Renato Ferrandi, Italian Competition Authority
10.45-11.00	Coffee break
11.00-12.00	Case examples of finding market power and dominance in digital markets Griet Jans, Belgian Competition Authority
12.00-12.30	Policy discussion on DMA implementation and Article 19a of German legislation Griet Jans, Belgian Competition Authority Renato Ferrandi, Italian Competition Authority
12.30-14.00	Lunch
14.00-15.00	Theories of harm in abuse of dominance cases with recent developments María Pilar Canedo, OECD
15.00-15.15	Coffee break
15.15-16.15	Theories of harm in digital markets Alfredos Theodorakopoulos, Court of Justice of the European Union
16.15-17.30	Hypothetical Case Exercise on dominance and abuse
19.00-22.00	Welcome dinner
Friday, 1 December 2023	
09.15-10.45	Dimensions of competition in regulated markets: regulation vs. market competition Deni Mantzari, University College London
10.45-11.00	Coffee break
11.00-12.30	Theories of harm in regulated markets: price regulation vs. price competition Hugh Mullan, Ofcom
12.30-14.00	Lunch
14.00-15.15	EU competition policy and sector regulation in digital markets Lefkothea Nteka, Lambadarios Law Firm
15.15-15.30	Coffee break
16.15-16.45	Kahoot game!
16:45-17.00	Questionnaire exercise – What do you know now?



Ordinary RCC Seminar:

Detection tools for competition agencies.

Budapest, Hungary, 12-14 December 2023

Seminar objectives

Finding evidence of competition infringements is a challenging task for the competition authorities. The harm to society caused by such behaviour requires a very strong commitment from competition authorities and a strong case to back up their judicial action. The main objective of the seminar was to provide an in-depth analysis of the different techniques used by authorities to create sound cases and the procedural aspects involved in the use of these techniques.

The speakers



Andrej Matvoz

Director of the Slovenian
Competition Protection Agency



Margarida Matos Rosa

Former President of the Portuguese
Competition Authority



Maria Pilar Canedo Arrillaga

Coordinator of OECD-GVH
training activities,
OECD



Botond Horváth

Head of Cartel Section,
Hungarian Competition authority



Ali Ozan

Deputy Head of the IT Department,
Turkish Competition Authority



Çiğdem Kır Şahiner

Competition Expert, Turkish
Competition Authority



Lukas Cavada

Executive Coordinator for
International Cooperation, Austrian
Federal Competition Authority



Jutta Wimmer

Special Unit for Combating
Cartels, Bundeskartellamt

Agenda

Tuesday, 12 December 2023	
09.30-10.00	OPENING REMARKS, GROUP PHOTO, TOUR DE TABLE László Bak, Vice-President of the Hungarian Competition authority María Pilar Canedo, Coordinator of OECD-GVH training activities
10.00-10.45	DETECTION TOOLS IN PUBLIC ENFORCEMENT OF COMPETITION LAW Ensuring effectiveness of the whole set of detection tools María Pilar Canedo, Coordinator of OECD-GVH training activities
10.45-11.00	Coffee break
11.00-11.30	WHISTLEBLOWING AND LENIENCY Lukas Cavada, Austrian Federal Competition Authority
11.30-12.00	LENIENCY REQUIREMENTS AND BREACH OF COOPERATION Botond Horváth, Hungarian Competition Authority
12.30-14.00	Lunch
13.00-13.30	ALTERNATIVES TO LENIENCY PROGRAMS FOR INFRINGEMENT DETECTION Botond Horváth, Hungarian Competition Authority
13.30-14.45	ANATOMY OF A DAWN RAID: KEY STEPS Margarida Matos Rosa, former President of the Portuguese Competition Authority
14.45-15.00	ILLUSTRATION OF A HYPOTHETICAL CASE María Pilar Canedo, Coordinator of OECD-GVH training activities
15.00-15.15	Coffee break
15.15-16.30	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
16.30-17.00	Sharing the results of the working groups
19.00-21.00	Welcome dinner
Wednesday, 13 December 2023	
09.00-10.00	SUCCESSFUL DAWN RAID: TRICKS AND TIPS Jutta Wimmer, Bundeskartellamt
10.00-11.00	DAWNRAIDS AND E-DISCOVERY Lukas Cavada, Austrian Federal Competition Authority
11.00-11.15	Coffee break
11.15-12.15	DIGITAL TOOLS, USE OF BIG DATA AND AI Ali Ozan, Turkish Competition Authority
12.15-13.00	THE APPLICATION FOR NECESSARY JUDICIAL WARRANTS AND PROCEDURAL ASPECTS CONNECTED WITH DAWN RAIDS Jutta Wimmer, Bundeskartellamt
13.00-14.10	Lunch
14.10-14.30	PROCEDURAL FINES IN CONNECTION WITH DAWN RAIDS Botond Horváth, Head of Cartel Section, Hungarian Competition Authority
14.30-14.35	BACK TO THE HYPOTHETICAL CASE María Pilar Canedo, Coordinator of OECD-GVH training activities
14.35-15.00	Coffee break
15.00-16.30	BREAK OUT SESSION Discussion on the hypothetical case Moderated by the speakers
16.30-17.00	Sharing the results of the working groups
19.00-21.00	Dinner

Thursday, 14 December 2023

09.30-10.00	SETTLEMENTS Lukas Cavada, Austrian Federal Competition Authority
10.00-10.35	NON-DIRECT EVIDENCE: IS IT ENOUGH? María Pilar Canedo, Coordinator of OECD-GVH training activities, OECD
10.35-11.00	Coffee break
11.00-11.45	AN INSTITUTIONAL APPROACH TO DETECTION TOOLS: THE CASE OF SLOVENIA Andrej Matvoz, Slovenian Competition Protection Agency
11.45-12.30	ROUNDTABLE: ENSURING SOLID INTERIM MEASURES Çiğdem Kır Şahiner Commenting: Lukas Cavada, Jutta Wimmer, Margarida Matos Rosa, and Maria Pilar Canedo
12.30-13.00	CLOSING SESSION Summary and Kahoot game
13.00-14.00	Lunch
19.00-21.00	Dinner



D. Evaluation of the RCC seminars in 2023

Participants are invited to provide valuable feedback after each seminar in the form of an evaluation questionnaire so that the quality of the seminars can be maintained and even possibly improved. In line with the evaluation results, it can be concluded that the seminars provided valuable intellectual,

theoretical and practical information of great relevance to the daily work of the seminar participants and also proved to be a great opportunity for the exchange of opinions and experience. In summary, the average value of the seminars throughout the year was 4.6 out of a maximum of 5.

Table 1: Detailed evaluation results by event and category

Detailed evaluation results by event and category				
	Usefulness of the event	Quality of the Speakers	Quality of the break-out sessions	Quality of the organisation
Merger control in times of uncertainty	4,8	4,8	4,6	4,6
Intellectual property rights and competition policy: friends or foes?	4,8	4,8	4,7	4,8
Key developments in digital markets and regulated industries (Judges)	4,7	4,7	Not rated	4,2
Competition advocacy (joint)	4,6	4,6	4,7	4,7
Innovation (GVH)	3,8	4,2	4,2	4,3
Economics of competition law (Judges)	4,8	4,9	Not rated	4,7
Detection tools	4,9	4,8	4,9	4,9
Average	4,6	4,7	4,6	4,6

As detailed in the table below, it can be concluded that most participants rated the overall usefulness of the event and

the topics highly or very highly, with 93% of respondents rating the events as such.

Table 2: Evaluation results in percentage

Evaluation results in percentage					
	Very low	Low	Moderate	High	Very high
Overall usefulness of the event	0%	0,54%	4,89%	22,83%	71,74%
Quality of speakers	0%	0,90%	8,35%	22,69%	68,06%
Overall quality	0%	0,72%	6,62%	22,76%	69,90%

2. Newsletter from the OECD-GVH RCC

It is worth pointing out that the Review entitled “Competition Policy in Eastern Europe and Central Asia” has become a prominent publication in this region, attracting contributions not only from the beneficiary authorities, but also from competition authorities around the world. The RCC published two further editions of its Review in 2023 – one on competition enforcement and ex-ante regulation in digital markets (Janu-

ary 2023) and one on merger control in times of uncertainty (October 2023). The publications are available on the RCC website both in English and Russian.¹

The Review can be considered a useful tool for cooperation and the exchange of information, which can further strengthen our network and increase the efficiency of our work.



¹ <https://www.oecdgvh.org/contents/about/newsletters>

3. Training video project

One of our core initiatives is the video project “Key competition topics explained in a few minutes”, which consists of short and engaging videos explaining important competition issues. It has become a successful complement to the RCC toolkit as the videos on “Bid rigging”, “Abuse of dominance” and “Market definition” are the most watched OECD videos on competition. Thanks to the support of the beneficiary

competition authorities, the videos are available with subtitles in sixteen different languages, including also Arabic, as a tripartite agreement was successfully concluded with the UN Economic and Social Commission for Western Asia. Not to mention the fact that we have produced three training videos for national judges to help them better understand competition law.

The videos are available on the YouTube channel of the OECD.¹



¹ https://www.youtube.com/watch?v=GRITcq_VpEg&list=PLyBGvyEYBNlq5nWCYUzri1-1XvMTNaf2N

Financial and intellectual contribution

According to the Memorandum of Understanding, the founding parties are responsible for ensuring that the RCC operates to the highest possible standards in order to achieve its main objectives. Both parties contribute financially and intellectually to the smooth functioning of the RCC. Furthermore, the vast experience and expertise of OECD members contribute to the training programmes offered to the benefi-

ciary competition authorities and national judges by the RCC year after year.

The RCC had a budget of 458 935 EUR in 2023, which includes funding from the GVH, the OECD, and the European Commission. The table below details the total costs of operating the RCC in 2023 by source of funding, event and major cost categories.

Sources of funding (EUR)	
Hungarian Competition Authority (GVH – Gazdasági Versenyhivatal)	371 292,30
Organisation for Economic Cooperation and Development (OECD)	30 000
European Commission	57 642,70
Breakdown of total expenses by items (EUR)	
A) Direct organisational costs	
Competition Lab for Judges co-funded by the European Union (November 2022)	23 647
Ordinary RCC Seminar on Merger control in times of uncertainty	51 362
Ordinary RCC Seminar on Intellectual property rights and competition policy: friends or foes?	49 605
Competition Lab for Judges co-funded by the European Union (May 2023)	47 256
Joint RCC Seminar on Competition advocacy	35 206
GVH Staff Training on Innovation	25 045
Competition Lab for Judges co-funded by the European Union (November 2023)	41 608
Ordinary RCC Seminar on Detection tools	15 050
Total direct organisational costs	288 779
B) Other operational costs of the RCC	
	10 220
C) Voluntary contribution by the GVH to the OECD	
	159 936
Total expenses in 2023	458 935

Competition Lab for Judges organised in the framework of the OECD-GVH Regional Centre for Competition in Budapest (RCC) and co-funded by the European Commission.¹

A deeper analysis of one of our key activities by **María Pilar Canedo**



María Pilar Canedo

Senior Competition Expert
Academic Director of OECD-GVH RCC
OECD



Co-funded by the
European Union

Judicial review of competition decisions is a concern in many jurisdictions around the world. Competition cases deal with complex situations that sometimes require sophisticated legal and economic analysis. Building a solid case often requires the use of indirect evidence, as companies use intricate systems to hide their conduct. The development of innovative business designs to achieve commercial goals must sometimes be analysed using creative and new tools and approaches to ensure the adequate level of protection of public interest.

On the other hand, the sanctions -and other measures that competition authorities can impose- are quasi-criminal in nature, which implies that procedural aspects and the rights of defense of companies must be guaranteed at the highest possible level. Legal certainty becomes pivotal, especially in times of change and uncertainty. In this case, the judicial review of administrative decisions becomes crucial and complex.

There are many jurisdictions where relevant legal issues are examined and doctrinal disputes are discussed (with many contentious issues, such as procedural limitations, responsibility of parent companies, guarantees for dawn raids, confidentiality issues, legal privilege...). It is not uncommon to find

contradictory interpretations of those concepts in decisions even within one certain jurisdiction. It is of course more difficult to achieve uniform application within the EU.

The use of economic methods to assess certain conduct is particularly challenging for judicial control given, inter alia, the complexity of the analysis required to apply some theories of harm, the definition of markets and the assessment of market power.

The disruption in our markets caused by digitalization and the use of big data, personal data or artificial intelligence by companies and agencies are challenges that require deep reflection. Understanding these new situations goes beyond the traditional legal or economic approach.

In these circumstances, it seemed urgently necessary to create a forum where judges from different jurisdictions applying the same or very similar legal systems and facing the same problems could share their experience with each other (this was felt both by the administrative agencies, including the European Commission, and the judges).

The OECD-GVH Regional Centre for Competition in Budapest (RCC) wanted to contribute to fulfill this gap at least

¹ Funded by the European Union. Views and opinions expressed are however those of the author only and do not necessarily reflect those of the European Union or the European Commission. Neither the European Union nor the granting authority can be held responsible for them.

partially. Therefore, the GVH and the OECD started to apply for the call of proposals, funded by the European Commission, for training judges in competition law. In previous years, the project was selected as one of the highest ranked in its category.

The main goal of the project is to bring together a multi-jurisdictional group of judges from EU Member States and ask them to reflect on relevant topics of competition law. Those topics are decided in advance by a group of experts, based on the experience of the competition authorities and the case law of different courts, particularly the European Court of Justice, trying to create the best conditions for discussing the most problematic concepts as well as reaching a common understanding that could benefit European societies.

Such an event, bringing together judges, academics and other competition law experts, aims to contribute to a more uniform application of competition law across Europe and to a more sophisticated legal and economic analysis of administrative and judicial decisions. Competition law seminars for national judges are a laboratory dedicated to the discussion, exchange of views and participation in competition policy debates, which can enrich competition law enforcement and thereby contribute to legal certainty and consumer welfare in Europe.

In 2023, the RCC organised two seminars for judges on competition law and policy:

One of them was entitled “Stepping up with the fundamentals of competition law: Key developments in digital markets and regulated industries” which took place in May.

A selected group of experts discussed problematic issues that have arisen in their cases, such as the different methodologies to assess market power and dominance, with a specific focus on the methodologies applied in traditional and digital markets. Sharing experiences and discussing the different outcomes proved to be a useful tool to enrich the debate.

An in-depth overview of the case law of the ECJ on abuse of dominance cases played a major role in identifying the problems and solutions given by the Court. Drawing on the recent judgements of the EU and national courts, as well as the practice of competition authorities (e.g., Intel, Qualcomm, Unilever, Servizio Elettrico Nazionale and Others, Lithuanian Railways, Telia Sonera, Amazon Italian Competition Authority), we tried to define the notion of ‘theory of harm’ and explain its role and significance in competition law enforcement.

We also explored the notion of theories of harm in relation to digital markets, this time with examples from real decisions and judgements (e.g., Google Shopping, Google Android, Facebook v. Bundeskartellamt, decisions by the CMA). We tried to examine whether the conditions peculiar to such markets (e.g., provision of services for free, different business and monetary models of incumbent economic operators) affect pertinent theories of harm and consequently the legal test applied

in each case. The implications of regulated markets were studied in-depth in the pharmaceutical, telecommunications and energy industries.

For this seminar we counted on the contributions of Tihamér Tóth (Judge, General Court, Court of Justice of the European Union); Renato Ferrandi (Director of International and EU Affairs, Italian Competition Authority); Melina Pappa (Director of Competition Policy, Liberty Global); Sven Frisch (Member, Luxembourg Competition Authority); Lefkothea Nteka (Partner, Lambadarios Law Firm and Chair of the Competition Lab for Judges); Peter Rowland (Of-Counsel, Herbert Smith Freehills LLP) and María Pilar Canedo (still Member of the Board of the Spanish CNMC).

The discussions and exchange of views reached a particularly high level, taking into account the experience of judges from more than 15 European jurisdictions dealing with competition law cases on daily basis, who were able to share their concerns and imaginative solutions to some of the problems they were facing.

The second seminar of the year focused on the economic approach to cases, entitled “Stepping up with the economics of competition law: Between competition and regulation”.

The focus of the first session was to familiarize the judges with economic terms and concepts considered fundamental for assessing market power and abusive practices both in general and in digital markets. The main discussion revolved around the key economic notions related to market power and dominance. There was also an in-depth analysis of the new (and not so new) theories of harm in abuse of dominance cases. The economic elements behind those concepts (e.g., supply and demand, elasticity, substitutability, SSNIP, barriers to entry and/or expansion, ‘countervailing’ ‘buyer’ power, economies of scope and scale) were the primary focus of the discussion. The presentations also addressed the Commission Notice on the definition of the relevant market under review.

In the second session, the judges heard case studies as to how to assess market power in digital markets. In this regard, it started with an overview of the key economic notions for defining digital markets (e.g., multisided markets, networks effects, etc.) and the conditions peculiar to such markets (e.g., provision of services for free). The discussion revolved around concrete examples from case law and the decision-making practice of competition authorities in relation to market power and dominance (e.g., Google, Apple, Facebook, etc.).

Further case examples were given from a regulatory perspective with references to the Digital Markets Act (designation of gatekeepers) and the German provision of Article 19a.

The notions of market dominance, theories of harm and abuse were also applied to the specific features of regulated markets. The role of regulation in shaping market conditions, the intensity of competition and the parameters of competition were then explored.

We then turned to a discussion on the interplay between regulation and competition, covering issues such as the key dimensions of competition in regulated markets, whether and how regulation affects market definition and dominance, as well as regulation as a barrier to and as a facilitator of entry.

Theories of harm in regulated markets, and mainly in pricing strategies, were developed on the basis of examples drawn from the case law of EU courts (e.g., margin squeeze). The pros and cons of price regulation and price competition were also discussed, analyzing how price regulation affects the motives and conduct of economic operators in the market. Some case law and the practice of competition authorities demonstrated how the lack of price competition affects pertinent theories of harm and legal tests.

We concluded a fruitful discussion on the interaction between EU competition policy and sector regulation in digital markets, focusing on the DMA (the key obligations imposed on gatekeepers). Reference was also made to the markets for consumer products and services related to the Internet of Things and the relevant results of the European Commission's sector inquiry. Topics discussed included how competition policy and sector regulation may tackle key competitive dynamics and entry barriers in digital markets, how the DMA

may be enforced in parallel with EU competition rules in the future and the role of courts in its implementation.

For this seminar we counted on the contributions of Alfre-dos Theodorakopoulos (Referendaire, General Court, Court of Justice of the European Union); Despoina Mantzari (Associate Professor in Competition Law and Policy, UCL Laws); Griet Jans (Chief Economist, Belgian Competition Authority); Hugh Mullan (Director, Ofcom); Renato Ferrandi (Director of International and EU Affairs, Italian Competition Authority); Lefkothea Nteka, (Partner, Lambadarios Law Firm and Chair of the Competition Lab for Judges) and María Pilar Canedo (newly appointed Academic Director of the OECD-GVH RCC).

It goes without saying that the level of discussion on these topics was enhanced by the level of legal thinking of the judges who brought different backgrounds and common interests to the table to serve our societies with a more uniform and sophisticated analysis of competition law cases.

The evaluations we received were very positive and encouraged us to continue this initiative and to prepare another sound proposal for the EU Programme of training of judges. We are also working hard to disseminate the results of these discussions beyond the EU's borders.

RCC dedicated staff

The RCC is a virtual centre and does not have a central office; it is located at the GVH headquarters. The virtual existence of the RCC allows it to focus its funds on the real purpose of its establishment, which is to provide capacity building assistance and policy advice through workshops and seminars on competition law for competition law enforcement officers, sector regulators and national judges.

It is important to highlight that the RCC is a joint initiative – it is run by a senior competition expert at the OECD headquarters in Paris and by a consultant who is an employee of the GVH in Budapest. The work of the RCC is therefore based on the expertise of both institutions: the OECD Academic Director is responsible for preparing the professional programme of the events and inviting experts, whereas the GVH provides the technical background and logistical sup-

port (invitation of participants, travel arrangements, conference venue, accommodation and cooperation with the beneficiary competition authorities through the exchange of e-mails and phone calls). The GVH also aims to provide experts for each seminar, while the other speakers are invited from various OECD member states.

The OECD appointed a new RCC Academic Director, María Pilar Canedo, who was previously a Member of Board at the Spanish National Markets and Competition Authority. We would like to extend our sincere appreciation to Mr Renato Ferrandi for his dedication, hard work, and efforts in coordinating the RCC over the past few years and for bringing new ideas to the table. Our main aim is to continue our work at the highest possible level in 2024 and to achieve the same outstanding results.

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