The Bundeskartellamt has published a working paper which deals with the "Market Power of Platforms and Networks" in the Internet. The report focuses on the factors relevant for assessing the market position of platforms and networks and on the specifics of antitrust enforcement in the digital economy.

The digital economy ticks differently. Large and powerful companies which dominate the digital economy benefit from network effects. These heavyweights can make use of big data to gain a competitive lead; newcomers, on the other hand, find it difficult to keep up with them. Therefore, protecting competition in the Internet means above all keeping markets open for competitors, newcomers and new business models. Enforcing competition law in a consistent manner greatly contributes to maintaining the dynamics of the web. The Bundeskartellamt has to ensure that the control of abusive practices in the digital markets is effective. It must also develop existing examination models further to be able to quickly and efficiently analyse and assess these cases.

The working paper describes the state of affairs in theory and practice and complements the report on "Competition Law and Data" which the Bundeskartellamt recently published with the French Competition authority. The proposals of the Bundeskartellamt on how to modify specific points of the competition law framework have also been considered in the Green Paper on Digital Platforms of the Federal Ministry for Economic Affairs and Energy.

The complexity of business models and economic relationships in the digital markets presents new challenges for competition policy and enforcement practice. The conduct and strategies of large Internet companies are provoking intense discussion about the competitive harm these strategies cause, whether they are legal and to what extent they should be subject to special control. Against this background the Bundeskartellamt launched an "Internet Think Tank" in early 2015. The report presents the think tank's first work results and focuses in particular on market definition and the assessment of market power in the digital platform sector. It elaborates on existing literature and case practice, evaluates whether scientific concepts and models are suitable for application in the Bundeskartellamt's case practice and illustrates relevant proceedings of the authority in this economic sector.

The question as to whether an undertaking is "dominant" plays a decisive role in the application of competition law. Special factors need to be taken into account in the evaluation of multi-sided platforms which bring together different user groups (e.g. sales platforms, real estate portals, dating platforms, etc.) and networks (e.g. social networks), which are ubiquitous in digital markets. Such factors are, in particular, network effects, the extent of access to user data as well as the innovation
potential of the Internet. Network effects are characterized by the fact that the value of a platform or a network generally increases with the number of its users.

In particular previous case practice has shown that the antitrust tools currently used by the authority are generally also adequate and effective to deal with cases from the digital economy. Nonetheless the Bundeskartellamt hopes that the upcoming amendment to the German Competition Act (Gesetz gegen Wettbewerbsbeschränkungen, GWB) will introduce certain legislative modifications and refinements which will address in particular internet-specific interrelationships and the special factors of market power in digital markets.

The full report (in German), a summary (in English) as well as a brief presentation of its findings and recommendations for further action (in English) are available on the Bundeskartellamt’s website.

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