



FACULDADE DE DIREITO
Universidade de Lisboa

INTENSIVE POSTGRADUATE PROGRAM
AI IN LEGAL PRACTICE AND ITS REGULATION

Curricular unit

Module E: AI & Competition Law

Responsible Academic staff and respective workload in the curricular unit

Miguel Sousa Ferro (1st week)/Maria João Melícias (2nd week)

Syllabus

- 1. An introduction to competition law and policy**
 - 1.1. Legal framework and goals of competition rules
 - 1.2. Competition law tools
 - 1.2.1. Collusion, notion of undertaking, the oligopoly problem
 - 1.2.2. Unilateral conduct: market definition, market power and abuses
 - 1.2.3. Merger control
 - 1.2.4. Advocacy, sector enquiries, studies, and recommendations
 - 1.2.5. [State Aid]
 - 1.2.6. Private enforcement
- 2. “Computational antitrust”: the use of digital tools in competition enforcement**
- 3. Competition law challenges in the digital economy**
 - 3.1. Brief state of play, digital platforms and ecosystems
 - 3.2. The dynamics of competition in digital markets
- 4. Implications for Competition Policy**
 - 4.1. Algorithms and implications for competition policy**
 - 4.1.1. Types of Algorithms
 - 4.1.2. Algorithms and competition
 - 4.1.2.1. Algorithms and the risk of collusion
 - 4.1.2.2. Algorithms and hub and spoke schemes
 - 4.1.2.3. RPM and algorithms in the digital era
 - 4.1.2.4. Self-Learning Algorithms: challenges for competition enforcement
 - 4.1.3. An overview of relevant cases
 - 4.2. Market Definition and Market Power Assessment**
 - 4.3. Abuses of dominance**
 - 4.3.1. Self-preferencing
 - 4.3.2. Consumer behavioural biases
 - 4.3.3. Data and Privacy
 - 4.3.4. Theories of Harm in Recent Cases
 - 4.4. Mergers**
 - 4.4.1. Killer Acquisitions and data driven mergers
 - 4.4.2. Theories of harm in recent cases
- 5. Blockchain and Antitrust Law**



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6. The Digital Markets Act

- 6.1. Regulatory solutions and objectives of the DMA: a wider debate and state of play
- 6.2. Relevant Provisions
 - 6.2.1. Gatekeepers: designation and criteria
 - 6.2.2. Obligations and prohibitions (do's and don'ts), Data portability and interoperability
- 6.3. Institutional framework, implementation and cooperation

Discussion of a case study

Teaching methodologies (including evaluation)

By seminars and tutorials; evaluation by project/essay

Main Bibliography

On competition law in general

Bellamy & Child, *European Union Law of Competition*, 8th Edition, Oxford University Press

Wish, Richard & Bailey, David, *Competition Law*, 8th Edition, Oxford

Compilations of EU Antitrust Legislation

[General rules](#)

[General Block exemptions](#)

[Sector specific rules](#)

On the interplay between competition policy and digital

Advocacy

European Commission. (2017a). Final report on the e-commerce Sector Inquiry – Accompanying Staff Working Document.

Autoridade da Concorrência. (2019). Digital Ecosystems, Big Data and Algorithms.

Autorité de la Concurrence & Bundeskartellamt. (2019). Algorithms and Competition.

Competition and Markets Authority. (2020). Online Platforms and Digital Advertising.

Schrepel, Thibault & Groza, Teodora (editors), *The Adoption of Computational Antitrust by Agencies: 2021 Report (2021)*, Implementation Survey, Stanford Computational Antitrust

Collusion and Algorithms

Gal, Michal S. (2023). Limiting Algorithmic Cartels, *forthcoming*, 38(1) Berkeley Journal of Law and Technology.

Cheng, Thomas K. and Nowag, Julian (2022) Algorithmic Predation and Exclusion, Lund University Legal Research Paper Series, LundLawComp WP 1/2022.

Calvano, E., Calzolari, G., Denicolò, V., & Pastorello, S. (2020). Artificial Intelligence, Algorithmic Pricing, and Collusion. *American Economic Review*.

Harrington, J.E. (2018). Developing competition law for collusion by autonomous price-setting agents. *Journal of Competition Law and Economics*.

OECD. (2017). Algorithms and collusion: Competition policy in the digital age. OECD Competition Roundtables.

Stucke, Maurice E. and Ezrachi, Ariel (2018). Antitrust, algorithmic pricing and tacit collusion *in* Research handbook on the law of artificial intelligence, Elgar.



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Digital Platforms

OECD. (2021). Data Portability, Interoperability and Digital Platform Competition. OECD Competition Roundtables.

Cabral, L., Haucap, J., Parker, G., Petropoulos, G., Valletti, T., Van Alstyne, M. (2021) The EU Digital Markets Act – A Report from a Panel of Economic Experts.

Scott Morton, F. M., Crawford, G. S., Crémer, J., Dinielli, D., Fletcher, A., Heidhues, P., Schnitzer, M., Seim, K. (2021). Equitable Interoperability: the “Super Tool” of Digital Platform Governance.

Bourreau, M., & de Streel, A. (2019). Digital Conglomerates and EU Competition Policy.

Crémer, J., de Montjoye, Y., Schweitzer, H. (2019). Competition policy for the digital era.

Franck, J. U. & Peitz, M. (2019). Market Definition and Market Power in the Platform Economy. Centre on Regulation in Europe.

Furman, J., Coyle, D., Fletcher, A., McAuley, D., Marsden, P. (2019). Unlocking digital competition – Report of the digital competition expert panel.

Stigler Center for the Study of the Economy and the State (2019). Stigler Committee on Digital Platforms – Final Report.

Fumagalli, C., Motta, M., & Calcagno, C. (2018). Exclusionary Practices: The Economics of Monopolisation and Abuse of Dominance. Cambridge University Press.

Ezrachi, A., & Stucke, M. E. (2016). Virtual competition. Harvard University Press.

Stucke, M. E., & Grunes, A. P. (2016). Big data and competition policy. Oxford University Press.

Mergers

Cunningham, C., Ederer, F., & Ma, S. (2021). Killer acquisitions. Journal of Political Economy.

Motta, M. & Peitz, M. (2021). Big tech mergers. Information Economics and Policy.