

ASCOLA Central Europe Chapter webinars series 'Competition Law Enforcement and Covid-19: Developments in Central Europe', June–July 2020

In June and July 2020, the Centre for Antitrust and Regulatory Studies (CARS) hosted a series of webinars on the impact of the Covid-19 pandemic on the application of competition law in Central Europe. The webinars were organized by Maciej Bernatt, Petra Pipková and Laura Zoboli as part of the activities of the Central Europe Chapter of the Academic Society for Competition Law (ASCOLA).

The webinars discussed the evolution and perspectives of competition law enforcement in the Czech Republic, Hungary, Poland and Slovakia. This comparative dimension helped to outline the similarities and divergences in the approaches taken by Central European competition authorities, and to identify the upcoming competition challenges in the region after the Covid-19 economic crisis. The discussion also served to answer the question of how the market changes brought about by Covid-19 will affect the application of competition law.

The structure of the seminars was designed as follows. First, representatives of competition authorities or competition law practitioners presented the experiences of their antitrust authorities. Next, competition law scholars commented on these experiences and considered what challenges competition law will face in the future. Finally, a discussion took place.

During the seminar on the Czech Republic, Kamil Nejezchleb (UOHS, the Czech competition authority) presented the activities of UOHS during the crisis, focusing on the challenges in its operation, priorities in the application of competition law and the UOHS readiness to issue comfort letters containing a non-binding assessment as to whether horizontal cooperation between firms during the pandemic constitutes a restriction of competition law. He noted, among others, the lack of interest among entrepreneurs in the issue of UOHS comfort letters. Then, Michal Petr (Palacky University, Olomouc) focused on market changes that are likely to continue after the crisis. He also emphasized the challenges faced by UOHS, including, among others, a small number of proceedings in the area of abuse of a dominant position and lack of proceedings concerning complex antimonopoly cases requiring a 'by effect' assessment. He also discussed the challenges related to the limited possibilities of priority setting by UOHS. In response to the question, the speakers agreed that the limited resources of the Czech authority are the reason of many challenges; however, they stressed that it is difficult to expect improvements in this respect.

The second webinar was on Poland. Agata Zawłocka-Turno (Linklaters and CARS) criticized the activity of the Polish competition authority (UOKiK) during the pandemic. She emphasized, among other things, that UOKiK did not formulate guidelines that would help firms in self-assessment as to whether their activity during the pandemic could be considered restrictive of competition. Bartosz Targański (Warsaw School of Economics) focused on changes in distribution models caused by Covid-19, and in particular on potential challenges in assessing vertical agreements. In his view, Covid-19 has intensified e-commerce. The discussion after the presentations included an analysis of the impact that UOKiK's politicization may have on its functioning. In this context, attention was drawn to UOKiK's new powers concerning control over foreign direct investments (FDI). The nature of crisis cartels and their legal status was also discussed.

During the webinar on Slovakia, Michaela Nosa (Slovak Competition Authority, PMU) presented the Slovak experience, discussing, among other, the works undertaken within PHU on the draft to amend Slovak competition law in connection with the crisis. She discussed also what impact the crisis had on the works on the implementation of the ECN+ Directive in Slovakia. Next, Mária Patakyová delivered her comments (Comenius University Bratislava). She observed the development of e-commerce and the growing importance of price algorithms determining the prices of goods sold online. Finally, Ondrej Blažo (Comenius University Bratislava) discussed the complexity of the political situation in Slovakia (including corruption among officials) and then commented on the challenges regarding state aid.

The last webinar discussed developments in Hungary. First, Judit Firniksz (Réti, Várszegi & Partners) reviewed the activities of the Hungarian competition authority (GVH) in response to the pandemic. She analyzed the statistics (29 decisions) and the advocacy activities by GVH. She noted, inter alia, that in practice, the GVH is increasingly focusing on consumer protection cases, including in relation to digital markets (the Booking.com and Facebook decisions of 2020). Subsequently, Pál Szilágyi (Pazmany Peter Catholic University) identified challenges in competition law enforcement in Hungary. In response to the questions, he explained also how the control of concentrations of mergers considered 'strategic' by the government is organized. He discussed a concentration in the media market in Hungary, which was not subject to GVH check (KESMA case). He also presented how, in practice, during the pandemic, the military supervision of selected Hungarian firms functioned. During the discussion, the role of economic patriotism in Hungary was discussed, among others.

The series of webinars turned out to be a success (about 80 participants from various countries). They made it possible to define the topics of future webinars to be organized by ASCOLA Central Europe Chapter in the future.

Presentations and recordings of the speakers' speeches are available through the LinkedIn profile, <https://www.linkedin.com/company/ascola-central-europe-chapter>.

Maciej Bernatt

CARS, University of Warsaw
mbernatt@wz.uw.edu.pl
ORCID: 0000-0001-6765-9115

Laura Zoboli

CARS, University of Warsaw
lzoboli@wz.uw.edu.pl
ORCID: 0000-0001-5410-1489