

C O N F E R E N C E R E P O R T S

Business-to-Business Data Sharing within the EU Digital Market International Conference Warsaw, 14–15 September 2023

From 14 to 15 September 2023, the Centre for Antitrust and Regulatory Studies (CARS) of the Faculty of Management of the University of Warsaw, in cooperation with the Academic Society for Competition Law (ASCOLA) organised an international conference “Business-to-Business Data Sharing within the EU Digital Market”. The conference constituted a final step of the project of the same title carried out in CARS under the OPUS grant by the Polish National Science Centre (2018/31/B/HS5/01192). The conference aimed to advance the debate on the legal and regulatory challenges and opportunities of B2B data sharing within the EU digital market. It provided a platform for discussions among the legal and business communities about the data-based economy and asked the question of how to make the most of the potential of the European Union’s key resource.

The conference covered the legal, regulatory and enforcement aspects of data sharing, including EU regulation and data sharing; enforcement of EU regulation and data sharing; competition law and data sharing; intellectual property law and data sharing; data sharing, sector-specific policies and data spaces; data portability and data interoperability; data protection and privacy issues in data sharing; governance, risk management, and compliance in data sharing; business models and incentives for data sharing; technological and societal implications of data sharing. The conference focused on the challenges and opportunities related to sharing B2B data within the EU digital market. In line with the mission of the Jean Monnet Network on enforcement of EU law (EULEN), the impact produced on data sharing policies by the evolution of the EU digital and data regulatory framework (DMA, DSA, DGA, Data Act) and the resulting enforcement mechanisms were also discussed.

Speakers included leading European competition law academics who presented their latest cutting-edge research on the application of B2B data sharing in the EU legal landscape. The conference was attended by, among others: Professor Sharon Sandeen (Mitchell Hamline School of Law), Professor Marco Botta (European University Institute), Professor Björn Lundqvist (Stockholm University), Professor Maria Lillà Montagnani (Bocconi University), Professor Oles Andriychuk (Newcastle University School of Law), Professor Katarzyna Klafkowska-Waśniowska (University of Adam Mickiewicz) and scholars from Centre for Antitrust and Regulatory Studies:

Professor Maciej Bernatt, Doctor Laura Zoboli, Doctor Joanna Mazur and Monika Woźniak-Cichuta, PhD Candidate.

At the beginning of the conference, a number of prominent figures offered their welcome addresses: Professor Grzegorz Karasiewicz, Dean of the Faculty of Management, University of Warsaw, Professor Maciej Bernatt and Doctor Laura Zoboli.

Then, Maria Lillà Montagnani presented a keynote speech, in which she made a brief overview of the significant changes in the B2B data sharing regulatory landscape in the EU. She also analysed negative and positive integration measures with this regard and presented a hypothesis on the existence of the fifth freedom within the EU digital market, i.e. free flow of data.

In the first panel, chaired by Marco Botta, Adrianna Michałowicz elaborated on the topic of data altruism, i.e. voluntary data sharing for the general interest. Next, Oles Andriychuk presented his research on data sharing obligations in the Digital Markets Act, emphasising the need for data pragmatism. Then, Katarzyna Klafkowska-Waśniowska focused on the links between IPRs and data (content, or information). Finally, Lola Montero Santos provided an analysis of B2B data sharing obligations and their coherence with their stated policy goals.

In the next session, Maciej Bernatt, Laura Zoboli, Maria Lillà Montagnani, Marco Botta, Björn Lundqvist and Joanna Mazur presented an overview of a book: “Data sharing in Europe. A Critical Assessment of Regulatory Frameworks”, forthcoming in Routledge in 2024.

Maciej Bernatt chaired the second panel, in which Sharon Sandeen mapped secrecy in the EU’s data and digital markets. She i.a. discussed the interrelation between information diffusion and information lock-in. Then, Emanuele Fazio analysed experimentalist competition enforcement as a complementary data regulation toolkit. Next, Monika Woźniak-Cichuta presented her research on data sharing remedy in EU merger control. She reflected on concerns whether such a remedy should be applied to digital data-driven mergers. After this, Eugenio Olmedo Peralta elaborated on what competition law infringements can stem from data pools. During the discussion after the panel, he stated that such infringements could potentially be justified under Article 101(3) of the TFEU.

The third panel was chaired by Joanna Mazur. First, Selçukhan Ünekbaş analysed the verticalization of data portability – “making of its scope industry/product/firm-specific”. Then, Camilla Signoretta elaborated on potential clashes between IPR enforcement and data portability. She i.a. emphasised that a clear definition of portability could be helpful to resolve such clashes. After this, Aleksandra Wierzbicka pointed out limitations of efficacy of the GDPR stemming from the DMA data sharing obligations. Finally, Oscar Borgogno presented his research on ecosystem-tailored standardisation and stated that it was key to achieve interoperability within the Internet of Things.

Laura Zoboli chaired the fourth panel, in which Nicolò Zingales analysed digital ecosystems from the regulatory toolkit perspective. After this, Emanuela Arezzo discussed the obstacles in accessing clinical trials data, especially because of trade

secret protection and data exclusivity rights. Then, Irene Sánchez Frías presented her research on the European Health Data Space proposal. She emphasised the need of achieving the complex balance between patients' control over their personal data and the benefits of health data sharing for secondary uses. After this, Antoni Napieralski elaborated on the potential use of the EU Data Law as a barrier for the interoperability of medical data in the EU.

Afterwards, Björn Lundqvist provided his closing keynote speech and reflected on how digital platforms with significant market power acquire huge amounts of data, but do not share it with other participants of the EU market. He emphasised the importance of a truly sectoral framework for data sharing.

The conference was an excellent platform to share up-to-date research on B2B data sharing within the EU digital market. An undoubted advantage of the conference was its interdisciplinarity, which enabled the participants to analyse the issue of data sharing from the perspective of various fields of law.

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