

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

Cancels & replaces the same document of 19 June 2017

**Draft Agenda: 127th meeting of the Competition Committee**

**21-23 June 2017  
Paris, France**

*The 127th Meeting of the Competition Committee will be held on 21-23 June 2017 in Room 1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris (starting on 21 June at 10.00 am)*

Antonio CAPOBIANCO, Senior Competition Expert,  
Antonio.Capobianco@oecd.org +(33-1) 45 24 98 08

**JT03416386**

Complete document available on OLIS in its original format

*This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*

**Draft Agenda: 127th meeting of the Competition Committee**

**21-23 June 2017  
Paris, France**

---

**Wednesday 21 June (10.00 am - 05:30 pm)**

---

**10:00-10:05 1. Adoption of the Draft Agenda**

For approval:

- Agenda of the 127th meeting of the Competition Committee  
[DAF/COMP/A\(2017\)1/FINAL](#)
- 

**10:05-10:10 2. Approval of the Draft Summary Record of the last meeting**

For approval:

- Summary Record of the 126th Competition Committee meeting -  
[DAF/COMP/M\(2016\)2](#)

For information:

- List of Participants – [DAF/COMP/M\(2016\)2/ANN1](#)
  - Summary of Discussion of the Hearing on Big Data –  
[DAF/COMP/M\(2016\)2/ANN2/FINAL](#)
  - Executive Summary of the Hearing on Big Data –  
[DAF/COMP/M\(2016\)2/ANN4/FINAL](#)
  - Summary of the workshop on the selection and prioritisation of sectors for market studies [[DAF/COMP/WD\(2017\)49](#)]
- 

**10:10-10:20 3. Reports by the Working Parties Chairmen and by Coordinators**

---

**10:20-13:00 4. Roundtable on Competition Issues in Aftermarkets**

For discussion:

- Background note by the Secretariat – [DAF/COMP\(2017\)2](#)

Notes by delegations:

- Summary of contributions - [DAF/COMP/WD\(2017\)1](#)

Country Contributions:

- Chile - [DAF/COMP/WD\(2017\)44](#)
  - France - [DAF/COMP/WD\(2017\)42](#)
  - Israel - [DAF/COMP/WD\(2017\)47](#)
  - Italy - [DAF/COMP/WD\(2017\)4](#)
  - Korea - [DAF/COMP/WD\(2017\)10](#)
  - Japan - [DAF/COMP/WD\(2017\)5](#)
  - Latvia - [DAF/COMP/WD\(2017\)6](#)
  - Spain - [DAF/COMP/WD\(2017\)7](#)
-

- Sweden - [DAF/COMP/WD\(2017\)8](#)
- Turkey - [DAF/COMP/WD\(2017\)54](#)
- United States - [DAF/COMP/WD\(2017\)38](#)
- Romania - [DAF/COMP/WD\(2017\)9](#)
- European Union - [DAF/COMP/WD\(2017\)3](#)
- Croatia - [DAF/COMP/WD\(2017\)20](#)
- India - [DAF/COMP/WD\(2017\)11](#)
- Kazakhstan- [DAF/COMP/WD\(2017\)45](#)
- Russian Federation - [DAF/COMP/WD\(2017\)13](#)
- Chinese Taipei - [DAF/COMP/WD\(2017\)15](#)
- South Africa - [DAF/COMP/WD\(2017\)14](#)
- Ukraine - [DAF/COMP/WD\(2017\)16](#)
- Singapore - [DAF/COMP/WD\(2017\)17](#)
- BIAC – [DAF/COMP/WD\(2017\)51](#)

Also available at [www.oecd.org/daf/competition/aftermarkets-competition-issues.htm](http://www.oecd.org/daf/competition/aftermarkets-competition-issues.htm)

---

13:00-15:00    **Lunch**

---

15:00-16:00    **5. Presentation by Professor KAPLOW on "The Relevance of Market Power in Competition Law"**

For discussion:

- Paper on "The Relevance of Market Power" by Prof. L. Kaplow - [DAF/COMP/WD\(2017\)39](#)
- 

16:00-17:00    **6. Digital Economy – Recent country developments**

- Australia – The Flight Centre case
  - European Union – The Sector Inquiry on E-commerce
  - France - The Uber Pop case
  - Germany – Recent reform of the competition law in light of developments in the digital economy
  - Italy - Developments on hotel parity clauses
  - Japan – The CPRC (Competition Policy Research Center) report on "Data and Competition Policy"
  - Spain – The BlaBlaCar case
- 

17:00–17:30    **7. Presentation by the European Union on a legislative proposal to make national competition authorities more effective enforcers**

---

---

**Thursday 22 June (09:30 am - 06:00 pm)**

---

09:30-12:30 **8. Rethinking the use of traditional antitrust enforcement tools in multi-sided markets**

Notes by Experts:

- Professor Kurt Brekke (Norway) - [DAF/COMP/WD\(2017\)31](#)
- Paul Johnson (Canada) - [DAF/COMP/WD\(2017\)32](#)
- Arno Rasek (Germany) - [DAF/COMP/WD\(2017\)33](#)
- Professor Tommaso Valletti (EU) - [DAF/COMP/WD\(2017\)34](#)
- Kate Collyer (UK) - [DAF/COMP/WD\(2017\)35](#)
- Dr. Cristina Caffarra - [DAF/COMP/WD\(2017\)36](#)
- Dr. Jorge Padilla - [DAF/COMP/WD\(2017\)37](#)
- Dr. Lapo Filistrucchi - [DAF/COMP/WD\(2017\)27](#)
- Professor Michael Katz - [DAF/COMP/WD\(2017\)28](#)
- Professor Howard Shelanski - [DAF/COMP/WD\(2017\)40](#)

Notes by Delegations:

- BIAC - [DAF/COMP/WD\(2017\)52](#)

---

12:30-14:30 **Lunch**

---

14:30-15:30 **8. Rethinking the use of traditional antitrust enforcement tools in multi-sided markets**

15:30-18:00 **9. Accession Review of Lithuania [CONFIDENTIAL]**

- Draft Agenda – Accession review of Lithuania – [DAF/COMP/ACS/A\(2017\)1](#)
- Note by the Secretariat – Accession review of Lithuania – [DAF/COMP/ACS\(2017\)1](#)

---

**Friday 23 June (09:30 am - 05:30 pm)**

---

09:30-13:30 **10. Roundtable on Algorithms and Collusion**

For discussion:

- Background note by the Secretariat – [DAF/COMP\(2017\)4](#)

Notes by Experts:

- Note by Professor Michal Gal - [DAF/COMP/WD\(2017\)26](#)
- Note by Professor Ariel Ezrachi - [DAF/COMP/WD\(2017\)25](#)
- Note by Professor Avigdor Gal – [DAF/COMP/WD\(2017\)50](#)

Note by delegations:

- Summary of contributions - [DAF/COMP/WD\(2017\)2](#)

Country Contributions:

- Italy - [DAF/COMP/WD\(2017\)18](#)
- United Kingdom - [DAF/COMP/WD\(2017\)19](#)
- United States [DAF/COMP/WD\(2017\)41](#)
- European Union [DAF/COMP/WD\(2017\)12](#)
- Russian Federation - [DAF/COMP/WD\(2017\)22](#)
- Ukraine - [DAF/COMP/WD\(2017\)23](#)
- Singapore - [DAF/COMP/WD\(2017\)24](#)
- BIAC – [DAF/COMP/WD\(2017\)53](#)

Also available at [www.oecd.org/daf/competition/algorithms-and-collusion.htm](http://www.oecd.org/daf/competition/algorithms-and-collusion.htm)

13:30-15:00	<b>Lunch</b>
15:00 - 15:10	<b>11. Amendment to the Competition Committee Participation Plan [CONFIDENTIAL]</b>
15:10-15:30	<b>12. Discussion on the Competition Committee Global Relations and Outreach activities</b> <ul style="list-style-type: none"> <li>• Note by the Secretariat - <a href="#">DAF/COMP(2017)3</a></li> </ul>
15:30-16:30	<b>13. Annual Reports on Competition Policy</b> <ol style="list-style-type: none"> <li>a. Country presentations on recent developments in competition law and policy</li> <li>b. Presentation by Costa Rica on reforms of the competition law</li> <li>c. Presentation by Mexico of the report on “The resolution of competition cases by specialised and generalist courts” - <a href="http://www.oecd.org/competition/resolution-of-competition-cases-by-courts-2016.htm">www.oecd.org/competition/resolution-of-competition-cases-by-courts-2016.htm</a></li> <li>d. Presentation by Romania on the 20<sup>th</sup> Anniversary of the Romanian competition law</li> </ol>
16:30-17:00	<b>14. Discussion on the Action Plan for the revision of the OECD Recommendations on Competition</b> <p><u>For discussion:</u></p> <ul style="list-style-type: none"> <li>• Action Plan of the Competition Committee - <a href="#">DAF/COMP(2017)1/FINAL</a></li> </ul>
17:00-17:30	<b>15. Other Business and Future Work</b> <p><u>For information:</u></p> <ul style="list-style-type: none"> <li>• Future Roundtable Topics - <a href="#">DAF/COMP/WD(2017)48</a></li> </ul>

## **Annex: Annotations**

### **Item 3**

The Chairmen of Working Party No. 2 and of Working Party No. 3 may briefly report on the meetings of the Working Parties held on 19 June (WP2) and 20 June (WP3). The UNCTAD co-ordinator may report on UNCTAD related developments. The ICN co-ordinator will report on recent work and projects by the ICN.

### **Item 4**

Aftermarkets are markets for the supply of products or services needed for or in connection with the use of a relatively long-lasting piece of equipment that has already been acquired. The topic was never discussed before in the Competition Committee and this will be an opportunity to compare national approaches to a number of questions that can arise under competition law when aftermarkets are involved including: whether the relevant market for the competitive analysis consists of separate markets for primary and secondary products, or whether it is a market for “systems” consisting of both primary and secondary products; when, if at all, the supplier of the primary product has market power in the aftermarket and, if it has, what pricing and non-pricing conduct may amount to an abuse of dominance prohibited by competition laws. The discussion will benefit from the views of expert speakers (Lorenzo Coppi, Executive Vice President, Compass Lexecon; Thomas Graf, Partner, Cleary Gottlieb Steen & Hamilton LLP; Prof. Luis Cabral, Professor of Economics and International Business, Stern School of Business, New York University), from written contributions from Delegations and from a Secretariat Background paper.

### **Item 5**

Prof Louis Kaplow (Professor of Law and Economics, Harvard Law School) will present his recent research on the relevance of market power in competition law, which addresses identifying when and how market power is truly relevant in a wide range of competition cases. The presentation will cover questions such as: When and why should we inquire into market power? How much should we require? Should market power be viewed as one thing, regardless of the practice under scrutiny and independent of the pertinent anticompetitive and procompetitive explanations for its use? Does each component of market power have the same probative force? Or even influence optimal liability determinations in the same direction? The presentation will be followed by a discussion with Competition Delegates.

### **Item 6**

The Committee will hear presentations by delegations on recent developments related to the long-term topic of Competition, Digital Economy and Innovation. Presentations will cover recent cases from Australia and Spain. Delegates will also hear a presentation from the European Union on the main findings of the Sector Inquiry on E-commerce.

### **Item 7**

The delegation of the European Union will present a recent proposal for a Directive to empower the competition authorities of the EU Member States to be more effective enforcers and to ensure the proper functioning of the EU internal market. The aim of the legislative proposal is to ensure that when applying the same legal basis -the EU antitrust rules- national competition authorities have the appropriate enforcement tools to bring about a common competition enforcement area. To that end, the proposal provides for minimum guarantees and standards to strengthen the powers of national competition authorities.

**Item 8**

As part of the strategic theme on Competition, Digital Economy and Innovation the Competition Committee will host a Hearing to discuss the use of traditional antitrust enforcement tools in multi-sided markets. The Hearing will look at whether the tools traditionally used to define markets, to assess market power, exclusionary conduct, vertical restraints, or efficiencies, sufficient to address these questions in the context of multi-sided markets. Moreover, if they do need rethinking, how might these tools be redesigned or reinterpreted to equip agencies with the analytical tools they need in multi-sided markets. At the Hearing, a range of expert economists from agencies, academia, and private practice will present and discuss practical methodological proposals to deal with these questions. The papers describing these proposals will be finalised using feedback received at the Hearing and collected in a publication by the Secretariat.

**Item 9**

An accession review of Lithuania will take place in a confidential session on Wednesday 21 June, 2017 from 15:30 to 18:00. A separate agenda for this confidential item will be distributed on OLIS under [DAF/COMP/ACS/A\(2017\)1](#)

**Item 10**

This Roundtable will follow up in a more in-depth way on some of the themes emerged in the Hearing on Big Data from last December. There is an increasing tendency from firms to use pricing algorithms that speedily react to market conditions, such as the ones used by major airlines and online retailers. While there are few cases where agencies have looked at how pricing algorithms may facilitate collusion, there is an increasing literature looking at how the availability of large data sets combined with artificial intelligence might change the competitive landscape. This literature raises the question of whether antitrust agencies should revisit in a computer dominated environment traditional antitrust concepts, such as the concepts of agreement, or reconsider the boundaries between tacit/explicit collusion, and their legality and whether any antitrust liability can be imposed on the algorithms' creators and users. The discussion will benefit from the views of expert speakers (Prof. Ariel Ezrachi, Professor of Competition Law, The University of Oxford; Prof. Michal Gal, University of Haifa School of Law, Prof. Avigdor Gal, Technion Israel Institute of Technology, Israel), from written contributions from Delegations and from a Secretariat Background Paper.

**Item 11**

The Competition Committee will discuss in a **confidential** session amendments to its Participation Plan to respond to the request for Participant status from Argentina.

**Item 12**

A Secretariat Note will present to the Committee the outreach activities of the Competition Division. It will include: (i) the activities in the two Regional Competition Centres (Hungary and Korea) (2015-2016); (ii) a Secretariat update on OECD Global relations (June 2016-June 2017); and (iii) the results of the evaluation by participants of the 2016 Global Forum on Competition (GFC) and the 2016 OECD/IDB Latin American and Caribbean Forum (LACCF) as well as the topics for the 2017 GFC.

**Item 13**

Delegations listed below are invited to submit their annual report for 2016. As agreed last December following a recommendation by the Bureau, only some Delegations will be allocated time to make presentations on a key development that has taken place during the relevant period (e.g. a legal reform, a new policy approach, an important decision, etc.). Delegations are welcome to contact the Secretariat to

suggest a topic for an oral presentation at this session if they wish to do so. The Secretariat will collect these expressions of interest and coordinate with the Chair of the Competition Committee. It will subsequently contact Delegations to ensure a consistent approach to such presentations.

Annual Reports due at this meeting:

- Austria - [DAF/COMP/AR\(2017\)1](#)
- Belgium - [DAF/COMP/AR\(2017\)2](#)
- Czech Republic - [DAF/COMP/AR\(2017\)3](#)
- Denmark - [DAF/COMP/AR\(2017\)4](#)
- Estonia - [DAF/COMP/AR\(2017\)5](#)
- Finland - [DAF/COMP/AR\(2017\)6](#)
- Greece - [DAF/COMP/AR\(2017\)7](#)
- Ireland - [DAF/COMP/AR\(2017\)8](#)
- Israel - [DAF/COMP/AR\(2017\)9](#)
- Luxembourg - [DAF/COMP/AR\(2017\)10](#)
- Mexico - [DAF/COMP/AR\(2017\)11](#)
- Poland - [DAF/COMP/AR\(2017\)12](#)
- Portugal - [DAF/COMP/AR\(2017\)13](#)
- Slovak Republic - [DAF/COMP/AR\(2017\)14](#)
- Spain - [DAF/COMP/AR\(2017\)15](#)
- Sweden - [DAF/COMP/AR\(2017\)16](#)
- Turkey - [DAF/COMP/AR\(2017\)17](#)
- United States - [DAF/COMP/AR\(2017\)18](#)
- Brazil - [DAF/COMP/AR\(2017\)19](#)
- Colombia - [DAF/COMP/AR\(2017\)20](#)
- Croatia - [DAF/COMP/AR\(2017\)21](#)
- Kazakhstan - [DAF/COMP/AR\(2017\)22](#)
- Lithuania - [DAF/COMP/AR\(2017\)23](#)
- Romania - [DAF/COMP/AR\(2017\)24](#)
- Russian Federation - [DAF/COMP/AR\(2017\)25](#)

#### **Item 14**

Following the presentation last December by the OECD Legal Directorate on the ongoing comprehensive review of all of the OECD's legal instruments, competition Delegates will start the discussion on the possible revision of some the competition Recommendations based on an Action Plan approved by the Competition Committee.

#### **Item 15**

Competition Delegates are called to confirm topics for substantive discussions to be held in December 2017. Two topics have already been subject to a positive consultation: *The Use of Safe Harbours in Competition Enforcement* and *Cross Ownership/Partial Ownership and its Impact on Competition*. Delegates should feel free to send to the Secretariat as soon as possible any other suggestion that they would like to submit to the Committee's consideration.