

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

LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM

Session III: Practical approaches to assessing digital platform markets for competition law enforcement - Call for contributions

24-25 September 2019, San Pedro Sula, Honduras

This document is circulated in preparation of the discussion under Session III of the Latin American and Caribbean Forum that will take place on 24-25 September 2019 in San Pedro Sula, Honduras. Delegates are requested to submit their written contributions to the Secretariat by 2 September 2019 at the latest. Advance notice of your intention to submit contributions before or by 16 August 2019 would be useful.

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*Session III: Practical approaches to assessing digital
platform markets for competition law enforcement
Call for contributions*

Introduction

1. This year's LACCF will feature a roundtable discussion on "practical approaches to assessing digital platform markets for competition law enforcement". I am writing to you in order to provide you with some background about the topic, and invite you to make a written submission to the Roundtable.
2. Digital platform markets are occupying a significant share of the academic literature on competition, as well as discussions in international fora such as the OECD. This reflects both the impact of these markets, and the challenges that they may present.
3. A wide range of sectors feature digital platforms, including consumer retail, tourism and travel, finance, and media. Their size is significant: 7 of the world's top 10 companies in terms of market capitalisation operate digital platforms,¹ and internet advertising sales in 2018 exceeded USD 100 billion in the US alone.²
4. Platforms operate in multisided markets, meaning that they provide different services to different interconnected groups of consumers. This gives rise to unique market dynamics, in particular due to the positive "network effects" that consumers on one side experience when the number of consumers on another side increase. When platforms make decisions about price and quality, they must balance demand across different sides of a market (e.g. consumers of content and advertisers) and consider the interrelationships between the sides.
5. Several competition enforcement challenges arise in digital platform markets. Market definition can be complex, as it may not be clear whether a single market or multiple markets should be defined across the platform. Traditional tools such as the SSNIP test will require adjustments, which can significantly increase complexity and data requirements for competition authorities. Evaluating market power – especially if one side of a platform features a price of zero – can also be challenging, given the need to make an assessment that considers the platform as a whole rather than the different sides in isolation.
6. Despite the numerous academic articles available on these subjects, practical guidance for competition authorities on enforcement in digital platforms markets is limited. The OECD has developed some helpful resources, including a publication on [Rethinking antitrust tools for multi-sided platforms](#), and the Secretariat will be preparing a Background Paper identifying some key practical considerations. The roundtable will be an opportunity to discuss these considerations, and the experience of competition authorities in digital platform markets.
7. I would like to invite delegates to submit contributions on the subject of enforcement challenges involving digital platforms, recognising that case experience among LACCF participants is more limited in these markets. The contributions of delegates without case experience in platform markets would nonetheless be welcomed – I invite delegates (with or without case experience) to discuss what they consider to be relevant to their economies, what they see as the major difficulties in the actual or potential cases they

could pursue, and what they would need to be able to overcome these difficulties. Delegates could share details on how their authorities currently, or plan to, make the decision to pursue a digital platform case, and how they prioritise these markets. Further, if you have made any efforts to increase your authority's resources for enforcement in digital platforms, or foresee challenges in this regard, it would be helpful to share your views. In order to ensure a focused discussion, I would propose contributions on enforcement, rather than advocacy, issues.

8. In order to assist you with the preparation of your contribution, I refer you to the Secretariat Background Paper which will be circulated shortly, to the suggested bibliography included at the end of this letter, and to the more detailed list of questions included in the Annex. The list in the Annex is not exhaustive, and you are encouraged to raise and address other issues in your submissions and during the discussion.

9. The LACCF webpage (oe.cd/lacsf) will be the primary vehicle for conveying documentation and related links on this subject. Unless explicitly requested not to do so, the Secretariat will reproduce all written contributions on the site.

10. In order to ensure an effective preparation of the roundtable discussion, I would be grateful if you could advise the Secretariat by **Friday 16 August 2019** at the latest if you are planning to make a written contribution on the topic. Written submissions are due by **Monday 2 September 2019** and failure to meet this deadline may result in your contribution not being distributed in a timely fashion in advance of the meeting.

11. All communications regarding the documentation for this roundtable should be sent to Ms Angélique Servin (Angelique.SERVIN). Please address all substantive queries relating to this discussion should be sent to Ms Lynn Robertson (Lynn.ROBERTSON@oecd.org) and Mr James Mancini (James.MANCINI@oecd.org).

Annex: Suggested Questions for Consideration in Country Submissions

Roundtable on “Practical approaches to assessing digital platform markets for competition law enforcement”

1. Has your authority reviewed a merger or pursued an enforcement case involving a digital market or digital-focused firm (e.g. online platform, e-commerce seller, software developer, digital technology manufacturer)?
 - a. If so, please provide details on the firms and markets involved, the outcomes and, if possible, the main challenges you have faced.
 - b. If not, has your authority assessed a multi-sided market outside of the digital sphere (e.g. newspapers, television and radio stations)? What challenges did you face in dealing with the multisided nature of these markets? Did you adapt your analysis in any way to reflect the relationship between different sides of the market?
2. Has your authority considered pursuing enforcement cases in any digital markets? What factors influenced your decision to do so? Alternatively, if your authority has not pursued any such cases, what factors led to this decision?
3. Has your authority cooperated with any other jurisdictions in a digital market investigation? If so, what did this cooperation involve?
4. How does your authority draw the line in digital cases between competition, consumer protection and sector regulation issues?
5. Does your authority have specific tools, processes or expertise for handling digital evidence gathering or data analysis? If so, please describe them.
6. Has your authority implemented or prepared adapted antitrust tools for digital markets (e.g. for market definition, etc.)?
7. Has your authority conducted any market studies of digital sectors? Have these market studies supported enforcement or market monitoring work?
8. Does your authority feel well-prepared and sufficiently resourced to conduct enforcement work in digital markets?

Suggested Bibliography

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¹ PriceWaterhouseCoopers (2018), “Global Top 100 companies by market capitalisation: 31 March 2018 update”, <https://www.pwc.com/gx/en/audit-services/assets/pdf/global-top-100-companies-2018-report.pdf>.

² <https://www.iab.com/wp-content/uploads/2019/05/Full-Year-2018-IAB-Internet-Advertising-Revenue-Report.pdf>