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

Ex-Ante Regulation and Competition in Digital Markets – Note by Denmark

2 December 2021

This document reproduces a written contribution from Denmark submitted for Item 2 of the 136th OECD Competition Committee meeting on 1-3 December 2021.

More documents related to this discussion can be found at
<https://www.oecd.org/daf/competition/ex-ante-regulation-and-competition-in-digital-markets.htm>

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Denmark

1. On 15 August 2021, the Danish government published a catalogue of policy initiatives focusing on digital platforms from a consumer and competition perspective.
2. Three initiatives are especially relevant in relation to the discussion on ex ante regulation of digital markets as they complement the Digital Markets Act and the current competition rules.
3. *First*, the Danish government proposes to introduce a digital market task force and strengthen the Danish Competition and Consumer Authority's efforts towards digital platforms.
4. As an initial step, the Danish government has decided to introduce a market investigation tool, similar to the tools available in e.g. the UK and Iceland. The tool will give the Danish Competition and Consumer Authority the opportunity to intervene in markets where competition problems have been identified, but no infringement decision have been made.
5. *Second*, the Danish government has decided to initiate an analysis of whether so-called Skilled Person Reviews shall be introduced as a tool in Denmark. Skilled Person Reviews are a compliance tool used across a number of current UK regulatory regimes, including financial services and telecommunications regulation. The key features of Skilled Person Reviews include:
 - The regulator has the legal power to compel the stakeholder to submit to a review by an external expert/s;
 - The expert/s can be appointed by either the regulator or by the stakeholder;
 - The scope and wider parameters, including timings, of the review is approved by the regulator;
 - The stakeholder is under a legal duty to make provide the expert access with all relevant information, material and personnel;
 - The costs of the review are borne by the stakeholder;
 - The expert will produce a report of their findings to the regulator.
6. *Third*, the Danish government has decided to initiate an analysis of whether a model can be developed that require potentially anti-competitive mergers notified to the Danish Competition and Consumer Authority, even if they are below the turnover-based thresholds. The model must give the competition authorities the opportunity to intervene when a merger harms competition and consumers, but must at the same time ensure legal certainty for companies so that they have a fair opportunity to predict whether mergers will have to be notified or not.