

Unclassified

English - Or. English

9 June 2023

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

Algorithmic competition – Note by Kazakhstan

14 June 2023

This document reproduces a written contribution from Kazakhstan submitted for Item 5 of the 140th OECD Competition Committee meeting on 14-16 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/algorithmic-competition.htm>

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1. Introduction

1. Today, the Republic of Kazakhstan is witnessing a significant growth in the volume of digital platforms, accompanied by the emergence of major players in the e-commerce sector. This trend clearly indicates the strengthening of their market power.
2. However, alongside this development, the formation of business models by digital platforms, which rely on algorithmic pricing, brings forth new risks concerning competition and consumer protection.

2. Practice in antitrust cases

3. In the Republic of Kazakhstan, a notable illustration of unified algorithms being employed is observed in the cab services market, where aggregators utilize algorithmic pricing.
4. During peak periods such as rush hour or inclement weather in major cities like Almaty and Astana, the cost of cab services increases significantly, leading to discontent among the population.
5. Meanwhile, the aggregator, having established a presence in the market through network effects, gradually escalates the service charges associated with the use of their digital platform.
6. Presently, the Agency for Protection and Development of Competition of the Republic of Kazakhstan (Agency) is conducting an investigation into a cab service aggregator, regarding potential coordination of economic activities and abuse of dominant market position by setting exorbitant prices (charging high commissions from cab drivers).
7. Consequently, as part of the antitrust investigation, the Agency may employ a **cost-based approach** to ascertain a fair price.
8. In the event that such allegations are substantiated, the aggregator may face penalties amounting to 5% of their income, including confiscation of monopoly-related earnings.
9. Another instance of algorithm utilization in pricing is evident in the airline industry. Airlines tend to raise ticket prices during holiday periods, while simultaneously offering more affordable options with certain service limitations (such as non-refundable tickets, reduced baggage allowances, paid passenger check-in, etc.) to promote additional paid services.
10. In order to curb unfair practices by air carriers, the Agency collaborates with **the relevant government body** responsible for the aviation sector to establish pricing regulations in the air transportation market.

3. Conclusions

11. In the realm of digital regulation, instances of non-compliance with antitrust laws by participants in the digital market can be exemplified as follows:

- definition of dominance: traditional measures of market dominance, based on quantitative characteristics such as the volume of goods or services produced, may not adequately capture the dynamics of digital markets. Instead, digital markets often necessitate the consideration of alternative criteria such as the number of users and network effects when determining market dominance.
 - price coordination among market participants: aggregators employing unified algorithms for price formation can inadvertently lead to coordination of prices among independent participants in the market. This practice raises concerns as it may undermine competition.
 - dynamic pricing by dominant companies: dominant companies engaging in dynamic pricing face scrutiny due to existing prohibitions on monopolistic pricing. Furthermore, the contentious use of the cost method to determine a reasonable price adds complexity to the evaluation process.
12. Under current competition law, the actions of digital platforms can be assessed for potential abuse of a dominant position or coordination of prices among market participants.
13. However, the response of antimonopoly authorities primarily focuses on **rectifying the resulting damages**. The process of collecting evidence and seeking legal recourse often entails a substantial time investment, which does not guarantee the mitigation of emerging antitrust risks.