

## Editorial

*Sofia Oliveira Pais*  
General Editor

The editorial board is pleased to publish the first issue of the third volume of the *Market and Competition Law Review* (M&CLR).

The first two articles are devoted to the topic of digital markets. The opening article, written by Vicente Bagnoli, discusses whether the EC Commission applied the best tools in the Facebook/WhatsApp decision and if privacy issues should have been addressed in that decision. In addition, it explores if the subsequent procedures against Facebook in Germany and Italy could have been avoided.

The second article, by Roberto Augusto Castellanos Pfeiffer, reflects upon the possible use of competition law and policy to address privacy concerns related to big data companies. It reviews relevant European merger decisions and national antitrust decisions, suggesting a new approach to several antitrust concepts in cases related to big data platforms.

Subsequently, Afonso Patrão analyses the European strategies to minimise the problem of legal diversity as one of the main obstacles to the internal market. The article focuses particularly on the new approach followed in European law and in the case-law of the Court of Justice, which gives private parties the ability to choose the applicable law. The Author highlights the grounds and advantages of this method, claiming its use in areas where the traditional approaches – either through the harmonisation of legislation among Member States or the principle of mutual recognition – are not adequate to address the issue of legal diversity.

The two final articles discuss the boundaries of EU Copyright Law and EURODAC's impact in EU Migration Law.

Nuno Sousa e Silva highlights the fundamental role of copyright in the ongoing construction of the digital single market, analyses the evolution of that concept in the case-law of the Court of Justice, and concludes that,

although the Court adopted a harmonised horizontal notion of work, its meaning remains highly undetermined.

Finally, Benedita Menezes Queiroz examines how the development of EU databases in the area of Freedom Security and Justice, in particular EURODAC, affects asylum seekers' and irregular migrants' statuses in the European Union. EURODAC is an immigration database created to support the implementation of EU asylum policies and was not intended to fight irregular migration nor to identify an illegal stay. Nevertheless, the scope of EURODAC has been extended and the Author suggests that the level of surveillance of certain categories of migrants puts the distinction between illegally staying irregular migrants and criminals at risk.

The second section of this issue contains two contributions: Luca Villani comments on the judgment of 31 May 2018, *Ernst & Young P/S v. Konkurrenserådet*, concerning the scope of the standstill obligation set out in Article 7(1) of Regulation No. 139/2004, and Nora Memeti addresses the application of Article 14 of the European Union Merger Regulation when imposing fines to European mergers, examining several cases, namely *Electrabel v. EC*, *Marine Harvest ASA v. EC*, and the *Ernst and Young P/S v. Konkurrenserådet* judgments, as well as the *Altice/PT Portugal* decision.

In the third section, Miguel Mota Delgado reviews the book of Pablo Ibáñez Colomo entitled "The Shaping of EU Competition Law", concluding that the Author conducted a very innovative and exhaustive study to demonstrate the risks of EU's competition law system developing substantive inconsistencies.

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