

Press release

The Monopolies Commission presents its Special Report on competition on digital markets

The Monopolies Commission has submitted a discretionary Special Report on competition on the digital markets to the German Federal Government and Legislature. The Report is entitled: “Competition Policy: The Challenge of Digital Markets”. It contains an in-depth analysis of the market structure in selected digital markets from a competition-economic as well as a competition law perspective. In this Report, the Monopolies Commission follows up on its XXth Biennial Report from 2014, in which it has addressed questions of competition, data and consumer protection in the digital economy.

Digitalisation has initiated profound structural changes that affect many areas of life thereby creating new challenges to competition policy. The Special Report therefore focuses on the question of whether there is a need to change the existing legal and regulatory framework. Prof. Daniel Zimmer, the Chair of the Monopolies Commission, comments: “The developments on the digital markets make adjustments necessary to both the legal framework and regulatory practice. The scope of merger control should be widened; abuse proceedings must be completed more rapidly.”

The present Special Report puts particular emphasis on the analysis of markets on which services are provided by multi-sided platforms. This includes search engines, social networks, and some areas of e-commerce. The services on many of these markets are financed via the sale of advertising space. User data has developed into a relevant factor in competition. The Monopolies Commission is of the view that the multi-sided nature of services and the importance of data must be taken into account to a more significant extent by competition policy.

Special regulation is currently being discussed, primarily with regard to the provision of internet search. Such regulation does not appear necessary from the current perspective. Instead, the Monopolies Commission recommends adjustments to existing competition law. Merger notification thresholds, for instance, should be amended to also capture takeovers where target companies have a comparatively low turnover yet relatively high transaction values. Considering the dynamics of digital markets and the great complexity of potential issues in competition, the Monopolies Commission recommends adjustments to the rules for competition abuse proceedings.

Regarding exploitation of content and data in violation of existing individual rights, the Monopolies Commission advocates strengthening copyrights, data protection, and consumer rights on the national as well as the EU level. This should be done to increase the enforceability of the individual rights of both users and content providers. Against this backdrop, the Monopolies Commission urges the German Federal Government to work towards the implementation of stringent data protection standards in the planned General Data Protection Regulation.

Monopolkommission

Heilsbachstraße 16 · 53123 Bonn · Tel +49 . 228 . 338882 -30 · vorsitzender@monopolkommission.bund.de
www.monopolkommission.de

Asymmetric regulation of traditional services on the one hand and new digital services on the other hand can distort competition, e.g. in the “sharing economy”, which is due to the emergence of innovative business models. In this context, the reaction is frequently a call for subjecting the new market participants to existing regulation. The Monopolies Commission suggests considering the opposite reaction, i.e. to reduce regulation for the established market participants.

The Monopolies Commission’s complete Special Report is available for download on: www.monopolkommission.de. An English version of the complete Report will be made available shortly.

The Monopolies Commission is a permanent, independent expert committee which advises the German government and legislature in the areas of competition policy making, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of discretionary Special Reports pursuant to § 44 of the Act Against Restraints on Competition. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Dr. Daniel Zimmer of Bonn University is the chairman of the Monopolies Commission.