



VIENNA 8th – 10th June 2017

**TOWARDS A DIGITAL SINGLE MARKET:
Competition law has parts to play**

Programme of Conference

*co-organised by the Association of European Competition Law Judges,
the European Commission & the Austrian Judiciary with the support of the
Federal Ministry of Justice and the Studienvereinigung Kartellrecht*

Theme The European Union is now the largest e-commerce market in the world yet an estimated half of potential cross-border transactions have been geo-blocked. Digital goods, platforms, and markets for our attention and for our personal data highlight the need to reconsider market definition, market power, theories of harm and categories of abuse. Competition law has significant parts to play in ensuring that there is an effective Digital Single Market. We shall explore a variety of ways in which competition law can tackle obstacles to such a market being effectively competitive.

Summary **Thursday 8th June 2017**

Executive Committee

Opening Reception

Friday 9th June 2017

The Main Conference and

Programme for accompanying persons

The conference dinner

Saturday 10th June 2017

National updates

Annual General Meeting of the Association



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Venues **The conference hotel is the Grand Ferdinand**, the only Austrian run hotel on the Ringstraße at **Schubertring 10-12**. The Grand Ferdinand has the great privilege of bearing the coat of arms of Austria as a mark of excellence. Opened in August 2015, Florian Weitzer has taken a 1950s building and converted it with relish. Originally the headquarters of Veitscher Magnesitwerke AG, the building had belonged to supermarket entrepreneur Karl Wlaschek who died just weeks before the hotel opened. Some rooms may be quirky but it has style right up to the rooftop pool and terrace with vistas of the city. It is within walking distance of Vienna's main city attractions. Booking details are below.

We are privileged to have **our opening reception in the Palais Trautson** designed in a Baroque style by Johann Bernhard Fischer von Erlach and located at **Museumstraße 7**. The palace was built in 1712 for Johann Leopold Donat von Trautson, the first Prince of Trautson who, at the court of Charles VI, the Prince of Trautson was second in rank only to Eugene, Prince of Savoy, the commander of the imperial army. Nowadays it is the seat of the Federal Ministry of Justice.

On Friday and Saturday **our Conference is hosted in the Palace of Justice** (German: **Justizpalast**) located on **Schmerlingplatz**, a square near the Ringstraße commemorating President Anton von Schmerling. It will be ten years after it reopened following 15 years of renovation. This palace, the seat of the Supreme Court (Oberster Gerichtshof) is a Neo-Renaissance building designed by architect Alexander Wielemans von Monteforte (1843–1911) and erected from 1875 to 1881.

Our dinner, with food by chef, Christian Domschitz will be held in the **Vestibül** originally designed as an access point for the carriages of the nobility, is situated under the left-hand grand staircase of the **Burgtheater**. After the Comédie Française, this is Europe's second-oldest modern theatrical company. The company's new theatre building, designed by Gottfried Semper und Karl Hasenauer, opened its doors on the Ringstraße on 14th October 1888, after fourteen years of construction. The Burgtheater was the last link in the chain of sumptuous structures built around the Ringstraße. Address: **Universitätsring 2**, Entrance Ringstraße Landtmannseite

Security Please bring a passport or identity card to each venue



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Commission The European Commission will pay for air/rail travel and accommodation
Invitations: for 56 judges/speakers, based on two per Member State and we have now submitted nominations (save for the Slovak Republic). Additional judges are welcome but their fares and accommodation would not be funded by the Commission.

Hotel: This year the Commission has a block booking for those judges and speakers who receive Commission invitations and for whom the Commission's agents will make bookings. The Commission will expect invitees to pay for any nights beyond those of 8th and 9th and or for additional costs of accompanying persons.

The Association has arranged to hold additional rooms that those not on the Commission list may book direct with the hotel on the following e-mail address / Phone Number:

reservations@grandferdinand.com

0043 316 703 400

The booking code is: **AECLJ**

Most of the rooms that we have asked them to hold are standard rooms at € 150 for single occupancy or € 170 for double

There are some Comfort Rooms at

€ 160 for single occupancy or € 180 for double; these rates all include: breakfast, wireless LAN, use of their sauna and VAT. Vienna has a city tax of € 1.50 per night per person which is not included.

The rate is being held until 27th April 2017 or until we run out of rooms.

Fees: Judges € 200 for the conference which includes membership unless the judge is from a court that is a corporate member (please mention this for an appropriate discount) and € 125 for each accompanying person. These fees include the conference dinner.

Judges will be sent a request for payment via the PayPal system.

Registration: Please contact the Association via aeclj@catribunal.org.uk; the Secretariat is provided by the UK Competition Appeal Tribunal +44 20 7979 7979

Please let the Association know:

Your name:

Your court:

Your e-mail address:

And the name of any accompanying person.

Together with any dietary constraints of which we should be aware.



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Local NCAs Austria has two main competition authorities, the Federal Competition Authority and the Federal Cartel Prosecutor. The Federal Competition Authority is independent whilst the Federal Cartel Prosecutor was set up in the sphere of the Federal Ministry of Justice. All investigative powers lie with the Federal Competition Authority. To safeguard public interests, the Federal Cartel Prosecutor is however party to antitrust proceedings. His task is the representation of public interests in matters of competition law with the Cartel Court..

Thursday 8th June 2017

15:00 (TBC) **Executive Committee** - meeting

Address Justizpalast, Schmerlingplatz

17:00 **Opening Reception - please arrive at the main entrance in Museumstraße between 16:30 and 16:45 for security**

Address: Palais Trautson, Museumstraße 7

Presentation: 17:00 – 18:00 *'A Jubilee - 150 Years of the Blue Danube Waltz'* by a panel president of the Vienna Court of Appeal, Eduard Strauss and his son Thomas, who are descended from Austrian composer of dance-music Johann Strauss I.

18:00 Cocktails and finger buffet until 21:00

Speaker: Minister of Justice - **Dr Wolfgang Brandstetter** who in 2007 became Head of the Institute of Austrian and European Criminal Business Law at Vienna's University of Economics and Business

Optional: Our host judge's partner is a judge who doubles as a jazz trombonist and musical arranger largely on traditional jazz from 50 years ago

21:00 **Jazz Septet "Ceora" at JAZZLAND, 1010 Wien , Franz-Josefs-Kai 29**

Jazzland is Vienna's oldest Jazz club; CEORA will play modern mainstream/hardbop in the style of Miles Davis

Tickets cost EUR 15 on a first come, first served basis and reservations are necessary as accommodation is limited



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Friday 9th June 2017**The Main Conference**

Venue: Justizpalast, Schmerlingplatz

08:30 Registration open for participants – the conference will end at 18:00

09:00 *Opening* **Dr. Gerhard Jelinek**, President, the Court of Appeal in Vienna (Oberlandesgericht)

Jacqueline Riffault-Silk, President of the Association

Hon. Prof. Dr. Eckart Ratz, President of the Supreme Court of Austria

Dr. Manfred VOGEL, President of the Senate of the Supreme Court (Oberster Gerichtshof) handling competition law matters; he will then take the chair

Kris Dekeyser, Director, DG Comp's Policy and Strategy, sets the scene from the Commission's perspective

Kris Dekeyser became substantive in October after being acting director. The Directorate is in charge of development of competition policy and legislation as well as of co-operation with national courts and competition authorities. A Belgian national, he joined the Commission in 1991 and has worked on EU competition policy throughout his career.

Christopher Yoo, John H. Chestnut Professor of Law, Communication and Computer & Information Science and Director of the Center for Technology, Innovation & Competition at the University of Pennsylvania

10:30 Coffee/tea

11:00 *Insights from National Competition Authorities into Markets within a Digital Single Market*

Chairman: Dr. Irene Faber, judge at the Vienna Court of Appeal

Julia Topel who has led the German Bundeskartellamt Internet Economy Task Force. Julia's presentation has three main elements:

How the BKA Think Tank worked in the environment of the case operating division;

An overview of their platform concepts on market definition and market power (that were adopted by the German legislator) by means of a case-report illustrated by the merger of two big online-dating-platforms Parship/Elitepartner; and

A brief overview of their ongoing Facebook abuse case as an important "big data" case.



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Tony Curzon Price, an economist at the UK Competition and Markets Authority

In much of the digital market place we are “paying” for information or other content by providing one or both of our attention or our personal data. He will help us think about what happens in competition terms if we think of attention as a fixed, depletable resource. If it is that, who pays the opportunity cost for the attention?

We can examine whether there are market failures in which firms do not have to pay that opportunity cost, manage to obscure it and turn it into profits for themselves. This is the theory of harm that he would like to develop to account for many people spending (and arguable wasting) time- on Facebook and that might also apply to the huge number of hours that have been devoted worldwide to Pokemon Go.

12:30 **Lunch**

14:00 The interplay of law and economics in understanding the Digital Single Market

Chairman: **Mag. Sabine Istjan**, judge at the Vienna Commercial Court

Paul Belleflamme, Professor of Economics now at Aix-Marseille School of Economics

He has been studying *digital goods* – there are many now in digital form that enable us to access information, literature, music, videos (including films and television programmes), software, applications, games etc.. Streaming platforms have become essential intermediaries, linking many producers with many consumers, in the distribution and consumption of digital goods. Such digital goods are different from physical goods in that consumption by one person does not prevent consumption by another and the marginal cost of reproduction is, these days, close to zero. There are technical ways of encrypting a digital good and ways of seeking to protect them in law – for example, through copyright or contract - to gain commercial leverage and to monetize the digital goods. Sometimes the monetization is direct – the consumer pays money – and sometimes it is indirect in that the consumer experiences the digital good without counting the cost in terms of attention and providing personal data (and advertising being targeted and advertising revenue being generated).

Florian Schuhmacher, Professor of Civil & Commercial Law at Vienna’s University of Economics and Business

15:30 Coffee/tea

16:00 *Potential and Limitations of Competition Law in promoting the Digital Single Market*



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Chairman **Prof. Dr. Georg Kodek**, judge of the Supreme Court of Austria and Professor for Civil and Commercial Law, Vienna's University of Economics and Business

Thomas Kramler is Head of the Digital Single Market Task Force responsible for the e-commerce sector inquiry in the European Commission's Directorate General for Competition. Dr Kramler holds a PhD from the University of Vienna, Austria. Before joining the European Commission, he worked as agent representing the Austrian government before the European Courts in Luxembourg.

Richard Whish, Professor Emeritus of King's College London who is also a Queen's Counsel Honoris Causa on the potential and limitations of competition law

17:30 Reflections, debate and open questions

18:00 Close of play

Friday Programme for accompanying persons

10:00 Gather at reception in the Grand Ferdinand Hotel for a walking tour of the major sights of the Old City followed by lunch at a typical Viennese restaurant and then a guided visit to St Stephan's Cathedral at 13:45 concluding at 14:30

The Conference Dinner

19:30 *There will be instructions on how to get there*

Venue: **Vestibül - Universitätsring 2, Entrance Ringstrasse Landtmannseite**

Saturday 10th June 2017

Venue: Justizpalast, Schmerlingplatz

09:30 **National updates 1**

11:00 Coffee break

11:30 **National updates 2**

12:30 **Jacqueline Riffault Silk**, President AECLJ, takes the chair for the Annual General Meeting of the Association

13:30 Lunch

Optional

15:00 Guided tour of the Belvedere Gallery for one hour – we can take up to 25 people and there would be a charge of € 20 per person inclusive of the



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guide and entrance fee. The Gallery is famous for the paintings of Austrian artist Gustav Klimt, 1862-1918.

You may like to know that the Lower Belvedere is hosting an exhibition of paintings by Dutch artist Lawrence Alma-Tadema who developed into a celebrated artist in Victorian England. His sensual representations of everyday scenes from antiquity made him famous outside the UK.

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