The French Autorité de la concurrence and the German Bundeskartellamt publish joint paper on data and its implications for Competition Law

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The increasing collection, processing and commercial use of data in digital markets has prompted a broad debate about the role of data in corporate strategies and the application of competition law to such strategies. Today several firms achieve high turnovers based on business models which involve the use of data.

In a joint project the French Autorité de la concurrence and the German Bundeskartellamt have analysed the implications and challenges for competition authorities resulting from data collection in the digital economy and other industries.

Andreas Mundt, president of the Bundeskartellamt, and Bruno Lasserre, president of the Autorité de la concurrence: "Business models particularly in the digital economy often involve a massive collection and use of (personal) data. **The aim of the paper is to provide a good overview on the relevant issues by evaluating the state-of-play of the debate and to discuss the various interfaces between Big Data and established concepts of competition law enforcement**. The practical relevance is at hand. The Autorité de la concurrence will soon launch a full-blown sector inquiry into data-related markets and

strategies. The Bundeskartellamt has just launched an investigation against Facebook and will analyse whether Facebook has abused its possibly dominant position in the market for social networks with its specific terms of service on the use of user data."

Determining why, how and to what extent data may become an instrument of market power is important for competition authorities worldwide. The Paper provides a comprehensive overview of the existing case law and literature. It allows stakeholders and competition authorities to identify key issues and parameters that may need to be considered when assessing the relevance of data for competition law enforcement. Two aspects of particular relevance can be identified: 1) whether the data under consideration can easily be obtained by rivals and 2) whether the scale and scope of data matter. The paper illustrates the necessity of a differentiated approach and a case-by-case analysis.

This joint work is a prime example of close cooperation between two major national competition authorities in a field of growing interest for firms, authorities and citizens alike. It also provides some food for thought in the context of the ongoing policy debate on the so-called digital platforms' economic role.

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Joint study on Competition Law and Data

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