1ST INTERNATIONAL MERGERS CONFERENCE

19 FEBRUARY 2020, LONDON

INTERVIEW WITH PIERRE REGIBEAU *

Pierre Regibeau *(Chief Economist, DG COMP), has been interviewed by **Nate Miller** (Expert, Cornerstone Research – Saleh Romeih Associate Professor, McDonough School of Business, Georgetown University) in anticipation of **the 1st International Mergers Conference**, to be held at University College London on 19 February 2020 (Registrations & Program: here).*

Can the standard approaches for assessing competitive effects in innovative industries be applied to digital markets, or do we need a special approach for digital?

The main issue is product market definition, for two main reasons. Firstly, because of information on individual consumers, prices can be tailored to individuals. This invalidates the traditional SSNIP tests since one cannot consider a uniform price

* *The views and opinions expressed in this document do not necessarily represent those of the speakers' institution or clients.*

increase. One possibility would be to consider an increase in the AVERAGE prices over a group of consumers, keeping the intra-group variation constant. What this implies for the traditional link between market definition, market shares and market power is not yet clear. Secondly, different consumers are shown different sets of goods between which they can choose. This also complicates the definition of markets and the analysis of mergers as the welfare effect of mergers now depend on the precise information that the merging parties have on each consumers. Again we need ways/statistics to help us deal with this consumer specificity at the aggregate level.

Another (antitrust) issue is data ownership and interoperability/access. In particular, should we distinguish between data which is generated by the firm's own activities (i.e. info on consumers) and data which is not generated by this activity (e.g. data to train face recognition algorithms)?

For the rest, digital markets tend to be fast moving and subject to various forms of economies of scale (including network effects) but this is also true of many other industries and we have already been dealing with these issues for a while.

How can we help ensure that digital markets remain contestable and does merger control have a role in this?

The key word is interoperability. Applied to algorithms and data, interoperability addresses most of the "digital-specific" issues that one can think of.
There is an argument for making merger review stricter in the following sense. We sometimes block (or ask for remedies) mergers which would facilitate abusive conducts (e.g. foreclosure). Of course one can also address this conduct ex post and not make it a factor in merger review. The choice between the two approaches depends on how sure one is to catch the ex post abuse. Digital competition often means algorithms…which make conduct harder to assess/monitor. This provides a rationale for relying more on ex ante merger control and less on ex post antitrust enforcement.

How would compatibility standards in digital markets, for example related to portability of consumers' data, change the importance and efficacy of merger control?

See above about the role of interoperability. Standardisation makes post-merger abuse less likely. Of course there should be continuing monitoring of SSO rules and of conduct within standard-setting organisations or standard setting consortia.