



CNMC COMISIÓN NACIONAL DE LOS  
MERCADOS Y LA COMPETENCIA

# Competition and competition Law in the Digital World

*THIRD HUNGARIAN COMPETITION LAW FORUM*

*Budapest, 23th May 2019*

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- **CHALLENGES: Market definition & Market power**
- **CHALLENGES: Mergers & Theories of Harm**
- **CNMC AND DIGITAL MARKETS**
- **FINTECH SECTOR MARKET STUDY**

### ➤ **Market definition & two-sided markets**

- Separate product markets VS Single relevant (platform) product market
- Analysis of interaction among platform users (Unilateral VS Multilateral)
- Transactional / Matching (Distribution channel) VS Non-transactional (Sales channel)

### ➤ **Market power & Digital Markets**

- Art 2 LDC/102 & tipping point
- Network externalities VS market share
- Access to data relevant for competition



### ➤ **Mergers & Acquisitions**

- Notification thresholds
- Preservation of Multi-homing (Exclusivity clauses)
- Disruptive innovation: Killer acquisitions

### ➤ **Theories of harm / Unilateral conducts**

- Exclusivity clauses
- Tying of products
- Self Preference (Comparison / Marketplace)
- MFN (Wide / Narrow)



<b>MERGERS</b>	<b>ANTITRUST</b>	<b>ADVOCACY</b>
<p>C/0573/14 SCHIBSTED/MILANUNCIOS</p> <p>C/0730/16 JUST EAT /NEVERA ROJA</p> <p>C/0802/16 DAIMLER/HAILO/MYTAXI/NEGOCIO HAILO</p> <p>C/1015/19 BAUER/CLABERE</p> <p><b>Art.4.5 SUBMISSION:</b> M.7217 FACEBOOK/WHATSAPP</p> <p><b>Art.22 SUBMISSION:</b> M.8788 APPLE/SHAZAM</p>	<p><b>INVESTIGATIONS:</b></p> <ul style="list-style-type: none"> <li>- EBAY</li> <li>- AMAZON</li> </ul> <p><b>COMPLAINTS:</b> S/DC/0536/14 CAIXABANC</p> <p>S/DC/0567/15: ESTUDIOS DE MERCADO INDUSTRIA FARMACÉUTICA</p> <p>S/DC/0592/16 LABORATORIOS MARTI TOR</p> <p><b>OPEN CASES:</b> S/DC/0631/18 ADIDAS ESPAÑA</p>	<p><b>MARKET STUDIES/ SECTORAL INQUIRES:</b></p> <p>PUBLIC CONSULTATION ON THE SHARING ECONOMY (2016)</p> <p>FINTECH (2018)</p> <p>CONTRIBUTION ON “SHAPING COMPETITION POLICY IN THE ERA OF DIGITISATION” (2019)</p> <p>STUDY ONLINE ADVERTISING(2019) (Forthcoming)</p>

## ➤ Fintech study - Conclusions & Recommendations

- Embrace pro-competitive effects of Fintech. Higher than market failures.
- Re-think regulation (Correction & Exacerbation market failure)
- Regulation of activities not entities (Less reserves of activity)
- Use of technology for regulatory compliance. '*Regtech*'
- Implement a regulatory sandbox regime. Dynamic regulation.
- Open banking: Technological neutrality & non-discrimination (APIs, Data Protection)