

# The CC calls for discussion on additional regulation to govern online platforms

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The Competition Council (the CC), in its market surveillance of the online platforms market, has identified their significant impact on competition, concluding that in order to ensure fair competition in Latvia it is necessary to initiate a discussion on the introduction of additional regulation that would determine the operation of online platforms and related obligations at the national level. At the same time, the competition law tools currently existing for the digital sphere may not be sufficient to identify the relevant market and the dominant position of online platforms.

In its market surveillance, the CC investigated the functioning of online platforms, focusing on market definition criteria in the context of competition law, as well as market power criteria for online platforms. The CC also carried out an initial assessment of the online advert platform market in Latvia, including both horizontal platforms offering several categories of adverts, such as ss.lv or ss.com, reklama.bb.lv, pp.lv, and vertical or specialised platforms specialising in one type of goods or services, such as auto24.lv or city24.lv. At the same time, the CC commented on the substitutability of social networks and possible other market players for online advertising platforms.

## Characteristic criteria for identifying digital markets

The CC found that digital platforms, due to their inherent characteristics, currently fall short of the traditional market definition criteria, and that it is not possible to fully conduct price evaluation tests to ascertain the substitutability of platforms, given that the services offered by the platforms are not necessarily free of charge. One of the characteristics of digital platforms is network influence, which can be both direct and indirect. Direct network effects occur when the attractiveness of a platform to one group of users increases, thereby increasing the number of users of the platform within the same user group. Conversely, an indirect network effect can be observed when an increase in the number of users in one user group on a platform increases the size of another user group, e.g. an increase in the number of users viewing real estate listings results in a simultaneous increase in the number of users posting real estate listings. Similarly, in the context of e-commerce platforms, sellers are interested in selling their goods on platforms that are popular with potential buyers.

The CC considers that the criteria for determining the market power of digital platforms are insufficient and has therefore looked at additional criteria that are relevant for ascertaining a platform's market power. Additional criteria for assessing market power that may be relevant include direct and indirect network effects, economies of scale, single-hosting (a situation in which a user uses a single platform for a given purpose) and multi-hosting (a process in which a user interacts with different platforms) conditions, platform user data, innovation, switching costs and switch-on effects and other, depending on the type of platform. In determining the relevant market, it is important to assess whether a single or multiple market approach should be used, while at the same time assessing the importance of the free market for the platform in question, existing network effects, and single- and multi-hosting conditions.

In assessing online advert platforms in Latvia, the CC has concluded that a multi-market approach is warranted in the context of this market, for example by identifying a separate market for online real estate adverts and a separate market for potential buyers, as well as a separate market for online vehicle adverts and a separate market for potential buyers. According to this definition of several relevant markets, the possible existence of a dominant position should be assessed on the basis of indirect network effects, brand effects, single or multiple hosting conditions, economies of scale and switching costs.

## Changes to existing competition law in the context of digital markets

In analysing the criteria for defining the relevant market and market power, the CC also looked at other national laws and regulations related to the supervision of digital platforms, concluding that, due to the specific characteristics of digital platforms, national competition law frameworks in, for example, Germany and Italy contain specific legal provisions related to the

assessment of digital platforms or the restriction of platform conduct. However, in Latvia, the existing tools for defining the relevant market and market power to determine whether an online platform is in a dominant position may not be sufficient in the view of the CC.

Therefore, in cases where an online platform in Latvia does not reach the gatekeeper status under the European Union Digital Markets Act, or in situations where it is not possible to establish a dominant position of the platform in the relevant market, but the platform has sufficient market power and ability to influence competitors, customers and society at large, in order to ensure fair competition, the CC invites market players and industry associations involved in the digital market to comment on the need to introduce additional regulation in the Competition Law that would determine the operation of online platforms and related obligations at the national level.

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