

**Tech and innovation:  
What are the challenges for competition law  
enforcement in the digital age?**  
Is the current competition regime fit for purpose in the  
digital economy?

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# Merger regime

- “Killer acquisitions”
  - EU Commission special advisers’ Report on Competition Policy for the Digital Era, Apr. 19
    - EUMR jurisdictional thresholds
      - Transaction value based thresholds
    - Presumption against legality of such acquisitions
  - Proposals for change in the UK
    - Furman Report, Mar. 19
    - Lear Report, Jun. 19
    - CMA Digital Markets Strategy, Jul. 19

# Merger regime

- Data and digital platforms
  - Commission decisions under EUMR:
    - Apple/ Shazam, Sept 18
    - Microsoft/ LinkedIn, Dec 16
    - Facebook/WhatsApp, Oct 14

*“... data is key in the digital economy. We must therefore carefully review transactions which lead to the acquisition of important sets of data, including potentially commercially sensitive ones, to ensure they do not restrict competition”.*

# Digital platforms

- Data portability and interoperability
  - EU Report on Competition Policy for the Digital Era
    - Sector specific regulation
    - Possible future block exemption regulation
  - UK Furman Report and CMA Digital Markets Strategy
    - Digital Markets Unit

# Anti-trust enforcement

- EU Report on Competition Policy for the Digital Era
  - Burden and standard of proof under Arts 101 and 102
- UK Furman Report
  - Interim measures
  - JR standard of review
  - Information gathering powers
  - Prioritisation of consumer enforcement work
  - CMA retrospective evaluation

# Anti-trust enforcement, contd.

- CMA's Digital Markets Strategy
- Its enforcement tools *“were built for the analogue age, and would therefore benefit from certain reforms to future-proof their effectiveness”*
- CMA was increasing its efforts to *“scan the horizon to anticipate and target poor practices and areas of concern in digital markets which may form the basis for future enforcement action”*
- As for the Furman proposals: they are *“now for the Government to consider and take forward as appropriate”*

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