

European Commission Competition Law Enforcement to Focus on E-Commerce Restrictions

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E-commerce is at the top of the European Commission's agenda, and recent developments suggest it will remain a priority. Several European Union member states have already taken an active interest in the issue.

On March 26, Commissioner for Competition Margrethe Vestager announced that in May, she will propose a broad inquiry into the online retail sector in an effort to better understand the market and help lift barriers to competition.

The inquiry will strive to identify the hurdles that e-commerce faces — specifically, the restrictions companies have placed on the cross-border sale of goods and digital content.

Vestager noted that in 2014, around half of all EU consumers shopped online; yet, only around 15 percent of them bought online from a seller based in another EU member state, underscoring potential barriers to competition. Taking direct aim at geo-blocking, the commissioner said: "I, for one, cannot understand why I can watch my favourite Danish channels on my tablet in Copenhagen — a service I paid for — but I can't when I am in Brussels."

Online platforms are likely to constitute another focal point, including how these platforms can be included in the online value chain. Other areas of concern include divergent contract rules, copyright laws, the complexity of value-added tax (VAT) regimes, spectrum management, data protection and standards. Companies likely to receive inquiry questionnaires include holders of content rights, broadcasters, manufacturers, merchants of goods sold online and companies that run online platforms such as price-comparison and marketplace websites.

At the same time, the EC is initiating several investigations into restrictions on online commerce. The first investigation concerns alleged restrictions on pricing and cross-border commerce of consumer electronic products, and started with surprise inspections of several online retailers on March 10. A second investigation is examining the alleged geo-blocking of video games sold online for use on personal computers. Ongoing investigations into broadcasters and licensing contracts have provided critical input for the EC's inquiries. One such investigation is of contracts that prevent existing and new subscribers from accessing television programs via satellite or online when outside the area covered by the program license.

The sector inquiry fits into the EC's digital single market strategy, an effort to create one digital market for the European Union. The investigations will be led by an internal task force that will report directly to Cecilio Madero, Competition's deputy director-general for antitrust.

Further investigations are likely to be initiated either concurrent with or following the sector inquiry.