

Vestager's Legacy in Digital Competition Policy

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Margrethe Vestager has profoundly influenced competition in digital markets and shaped the development of competition policy. The incoming Competition Commissioner must build on Vestager's legacy to strengthen both competition and European competitiveness.

Executive summary

Margrethe Vestager has profoundly shaped competition in digital markets. From 2014 to 2024, Competition Commissioner Vestager applied competition laws with determination, targeting the business practices of dominant online platforms like Alphabet, Amazon, Apple, Meta, and Microsoft. Alongside these enforcement efforts, Vestager redefined the competition framework by updating core policy tools and introducing significant digital regulations, such as the Digital Markets Act (DMA), to promote competitive and fair digital markets.

Vestager's influence extends to the broader development of competition policy. She championed fair competition, raising public awareness of its benefits through initiatives like "making markets work for people." Simultaneously, she resisted calls to relax competition rules—especially in merger control—for the sake of competitiveness, arguing instead that strong European competition is essential to achieving global industrial leadership.

Vestager's legacy provides a solid foundation for the next Competition Commissioner. The incoming Commissioner will face challenges similar to those Vestager encountered, including navigating overlapping regulations like the DMA and Germany's DMA-like competition law, keeping up with fast-evolving technologies like Generative AI, and addressing calls from some politicians for a "Europe-first" competitiveness approach.

The next Competition Commissioner must build on Vestager's legacy to advance both competition and competitiveness. To achieve this, the Commissioner should improve coordination in enforcing digital regulations to ensure policy coherence (Recommendation 1), deepen expertise in digital and AI markets to keep pace with rapid technological change (Recommendation 2) and implement a pro-competitive growth strategy to strengthen European competitiveness (Recommendation 3).

1. Introduction

Margrethe Vestager, recognised as one of Time's 100 most influential public figures in 2023, has led the European Commission's Directorate-General for Competition since 2014¹. Over her two mandates (2014-2019 and 2019-2024), the Danish politician earned a reputation as the “*digital czar*” for her bold actions against the market power of American tech giants like Google, Apple, Meta, Amazon, and Microsoft². By imposing multi-billion-euro fines that grabbed headlines worldwide, Vestager became known as “*the world's most famous regulator*”³, and was even dubbed the “*tax lady*” by former US President Donald Trump⁴.

However, Vestager's influence extends far beyond these fines. Her true impact lies in her willingness to challenge established competition concepts and propose significant reforms to adapt competition policy for the digital age. Driven by a commitment to fairness, Vestager worked tirelessly to ensure that European firms could compete on a level playing field with digital giants. While competition policy was her primary focus, her second mandate also saw the implementation of various reforms aimed at creating a Europe fit for the digital age, including policies on digital services and the data economy—key elements in advancing the Commission's agenda for fair and open competition in Europe's digital markets⁵.

As a social liberal, Vestager believed in fostering a vibrant, competitive European economy. She consistently resisted pressure to use competition policy to create European or national champions, leading to notable disagreements—particularly on digital matters—with her French colleague in charge of the internal market, Thierry Breton, who advocated for a “*European-first*” approach⁶.

¹ Ayesha Javed, Margrethe Vestager, *Times*, 13 April 2023 (accessed 24 July 2023). <https://time.com/collection/100-most-influential-people-2023/6269855/margrethe-vestager-2023/>

² Matina Stevis-Gridneff, E.U.'S New Digital Czar: 'Most Powerful Regulator of Big Tech on the Planet', *The New York Times*, 10 September 2019 (accessed 24 July 2023). <https://www.nytimes.com/2019/09/10/world/europe/margrethe-vestager-european-union-tech-regulation.html>

³ Sarah Lyall, Who Strikes Fear into Silicon Valley? Margrethe Vestager, Europe's Antitrust Enforcer, *The New York Times*, 5 May 2023 (accessed 24 July 2023). <https://www.nytimes.com/2018/05/05/world/europe/margrethe-vestager-silicon-valley-data-privacy.html>

⁴ Silvia Amaro, Margrethe Vestager is Set to Remain EU Competition Chief for Another Five Years, CNBC, 10 September 2019 (accessed 24 July 2023). <https://www.cnn.com/2019/09/10/margrethe-vestager-to-be-eu-competition-chief-for-5-years.html>

⁵ Ursula Von Der Leyen, Mission Letter to Margrethe Vestager, 1st December 2019 (accessed 24 July 2023). https://commissioners.ec.europa.eu/system/files/2022-12/mission-letter-margrethe-vestager_2019_en.pdf

⁶ Thibault Larger et al., Inside the EU's Divisions on How to Go After Big Tech, *Politico*, 14 December 2020 (accessed 24 July 2023). <https://www.politico.eu/article/margrethe-vestager-thierry-breton-europe-big-tech-regulation-digital-services-markets-act/>

Despite these conflicts, Vestager's approach, rather than Breton's, has impacted competition enforcement and policy in the digital age. Reviewing her legacy is essential for understanding its implications for competition in the digital sector over the past decade and shaping the next Commission's competition agenda, especially as the push for a more European-first approach gains momentum⁷.

This paper thus reviews Vestager's legacy in digital markets from a competition policy perspective. It explores how Vestager has shaped competition policy through both vigorous enforcement and strategic advocacy.

The paper adopts a comprehensive approach, beginning with an assessment of how Vestager implemented and enforced competition rules in digital markets. It identifies the major digital cases that defined her enforcement strategy and maps the policy changes made over the past ten years to adapt competition policy to the digital age. Subsequently, the paper studies how Vestager's advocacy work has influenced the broader competition policy discourse, highlighting both her efforts to strengthen competition and her resistance to initiatives that might weaken it. The analysis covers her policy agendas aimed at ensuring fair competition and making markets work for people, as well as her stance against relaxing competition rules for the sake of competitiveness. Based on these findings, the paper concludes with policy recommendations for the next Competition Commissioner to build on Vestager's legacy in competition policy. The Commissioner should improve coordination in enforcing digital regulations to ensure policy coherence (Recommendation 1), deepen expertise in digital and AI markets to keep pace with rapid technological change (recommendation 2), and (3) implement a pro-competitive growth strategy to strengthen European competitiveness (recommendation 3).

⁷ A Spat in Brussels Pits an Open Vision of Europe Against an Insular One, *The Economist*, 19 July 2023 (accessed 25 July 2023). <https://www.economist.com/europe/2023/07/19/a-spat-in-brussels-pits-an-open-vision-of-europe-against-an-insular-one>

2. Vestager's Enforcement Actions

Digital markets are complex and rapidly evolving, characterised by high concentration levels. A few large online platforms dominate certain markets (Furman et al., 2019), making them nearly indispensable for businesses and consumers in Europe and globally.

In this environment, Vestager pursued a vigorous enforcement strategy aimed at unlocking competition by addressing the harmful business practices of these dominant players (Section 2.1). Additionally, she took the initiative to rewrite the competition rulebook to better suit the digital age (Section 2.2).

2.1. Unlocking Competition

Vestager significantly impacted competition in digital markets by initiating several antitrust investigations, for alleged abuses of dominance, targeting the largest online platforms globally, including Alphabet⁸, Amazon⁹, Apple¹⁰, Meta¹¹, and Microsoft¹².

These investigations have led to landmark antitrust cases, where the Commission employed novel theories of harm, such as self-preferencing in the *Google Search (Shopping)* case and unfair trading conditions in the *Apple App Store (Music Streaming)* case, to impose remedies ensuring access to these platforms.

While most investigations remain ongoing or are pending before the European Court of Justice (ECJ), they have profoundly influenced competition policy in digital markets, both in Europe and worldwide, through the development of digital markets laws. Over recent years, these laws have proliferated globally, regulating the business practices of major online platforms.

The "*Brussels effect*" has seen legislators worldwide closely monitor European regulatory developments to shape their legislation (Bradford, 2020). From Brazil to Australia, Figure 1 below shows that laws have been enacted or are in development that directly draw from the

⁸ AT.40411 *Google Search AdSense* (rejected, T-334/19 *Google and Alphabet v Commission*); AT.39740 *Google Search (Shopping)* (confirmed, C-48/22 P *Google and Alphabet / Commission*); AT.40099 *Google Android* (under appeal, C-738/22 P *Google and Alphabet v Commission*); and AT.40670 *Google AdTech and data-related practices* (ongoing).

⁹ AT.40153 *Amazon E-book MFNs and related matters* (closed with commitments); AT.40462 *Amazon Marketplace* (closed with commitments); and AT.40703 *Amazon Buy Box* (closed with commitments).

¹⁰ AT.40437 *Apple App Store Practices (music streaming)* (under appeal, T-260/24 *Apple and Apple Distribution International v Commission*); and AT.40452 *Apple Mobile payments* (closed with commitments).

¹¹ AT.40684 *Facebook Marketplace* (ongoing).

¹² AT.40721 *Microsoft Teams* (ongoing).

Commission's cases, such as the *Google Search (Shopping)* case, to ban self-preferencing within their jurisdictions¹³.

Figure 1: Digital market-specific regulations in the world



Source: The author.

In Europe, the Commission builds on past and present antitrust investigations to promote contestability and fairness in digital markets with the Digital Markets Act (Regulation (EU) 2022/1925, Digital Markets Act (DMA)). The DMA imposes positive and negative obligations for large online platforms, designated as gatekeepers in specific core platform services, due to their unavoidable positions¹⁴.

The DMA complements European and national competition laws. While the DMA is a prescriptive tool that mandates gatekeepers to follow specific obligations before introducing products or services to the market, competition laws are curative tools addressing harmful

¹³ Christophe Carugati, Countries Are Regulating Competition in Digital Markets, *Digital Competition*, 15 January 2024 (accessed 14 August 2024). Available at: <https://www.digital-competition.com/infographics/countries-are-regulating-competition-in-digital-markets>

See also OECD, G7 Inventory of New Rules for Digital Markets, October 2024 (Accessed 10 November 2024). Available at: <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/competition-and-digital-economy/g7-inventory-of-new-rules-for-digital-markets-2024-update.pdf> / [jcr_content/renditions/original/g7-inventory-of-new-rules-for-digital-markets-2024-update.pdf](https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/competition-and-digital-economy/g7-inventory-of-new-rules-for-digital-markets-2024-update.pdf)

¹⁴ As of November 2024, Alphabet, Amazon, Apple, Booking, ByteDance, Meta, and Microsoft are designated. European Commission, Digital Markets Act (DMA) (accessed 8 November 2024). Available at: <https://digital-markets-act-cases.ec.europa.eu/search>

practices post-occurrence. In practice, these tools function together to unlock competition, particularly benefiting business users, as illustrated by the *Apple anti-steering* cases (**Box 1**).

Box 1: The *Apple Anti-Steering* cases

Apple has enforced an anti-steering clause in its App Store, preventing developers from informing users about alternative offers outside the app.

On 4 March 2024, the Commission determined that this clause constituted unfair trading conditions, particularly concerning music streaming services, in violation of EU antitrust law¹⁵. Consequently, the Commission required Apple to remove the anti-steering clause for these services. Although Apple complied, it continued to charge music streaming developers a fee when they acquired users¹⁶.

On 25 March 2024, the Commission initiated a DMA non-compliance investigation against Apple's new steering rules. These rules mandate, among other things, that developers pay a fee to Apple when transacting with new users.

On 24 June 2024, the Commission preliminarily found that Apple's new rules violated the DMA (Article 5(4) DMA), primarily because the fees charged exceeded what is strictly necessary for remuneration¹⁷.

In response, Apple proposed a revised fee structure in August 2024¹⁸. While the DMA investigation is ongoing, it illustrates how the DMA complements competition law in the *Apple anti-steering* cases. Notably, the DMA applies to all developers, not just those in music streaming, and grants the Commission discretion over the level of fees Apple can charge when steering users.

The complementarity between the DMA and both European and national competition laws necessitates close cooperation between the European Commission and national competition authorities (Article 38 DMA). The enforcement of Germany's DMA-like national competition law exemplifies this cooperation (**Box 2**).

¹⁵ AT.40437 *Apple App Store Practices (music streaming)*.

¹⁶ Apple, *Distributing Music Streaming Apps in the EEA That Provide an External Purchase Link* (accessed 14 August 2024). Available at: <https://developer.apple.com/fr/support/music-streaming-services-entitlement-eea/>

¹⁷ European Commission, *Commission Sends Preliminary Findings to Apple and Opens Additional Non-Compliance Investigation Against Apple Under the Digital Markets Act, 24 June 2024* (accessed 14 August 2024). Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3433

¹⁸ Apple, *Alternative Payment Options on the App Store in the European Union* (accessed 14 August 2024). Available at: <https://developer.apple.com/support/alternative-payment-options-on-the-app-store-in-the-eu/>

Box 2: Enforcement of the German DMA-like competition law.

In Germany, designated large online platforms are subject to a competition law similar to the DMA (Section 19a GWB), empowering the German competition authority to impose specific restrictions once a platform is designated¹⁹. The European Commission and the German competition authority have collaborated on these designations (European Commission, 2024). This cooperation has so far extended to a case where the German authority applied its law to require Google to obtain user consent for processing data from users accessing services outside the DMA's scope, as permitted by the DMA (Article 1(6) DMA)²⁰.

The DMA is already playing a significant role in shaping innovation across Europe. Although it is still too early to fully assess whether the DMA has achieved its objectives of ensuring contestability and fairness, its impact on the deployment of new products and services is undeniable. For instance, Apple's AI agent, Apple Intelligence, a new feature intended for its operating system, is currently facing delays due to concerns related to DMA compliance over interoperability requirements²¹.

Beyond antitrust actions and the DMA, Vestager reviewed several significant acquisitions in digital markets under EU merger control rules, including *Microsoft/LinkedIn* (2016), *Apple/Shazam* (2018), *Google/Fitbit* (2020), *Microsoft/Nuance* (2021), *Meta/Kustomer* (2022), and *Microsoft/Activision* (2023). Rather than blocking these acquisitions, she imposed remedies, where necessary, to preserve competition in the affected markets, primarily through behavioural access requirements.

In digital markets, EU merger control rules closely interact with the DMA. Gatekeepers must inform the Commission of all intended acquisitions in the digital sector (Article 14 DMA). This requirement allows the Commission to review acquisitions that fall below EU merger control thresholds through a referral process initiated by a Member State, as stipulated in the EU Merger Regulation (Article 22 EUMR). However, in *Illumina v. European Commission*, the ECJ clarified that such a referral is only permissible if the transaction meets the domestic merger

¹⁹ As of November 2024, Alphabet, Amazon, Apple, Meta, and Microsoft are designated under the German DMA-like competition law. Bundeskartellamt, Proceedings Against Large Digital Companies (last updated: September 2024) (accessed 24 October 2024). Available at: https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Downloads/List_proceedings_digital_companies.html?nn=50112

²⁰ Bundeskartellamt, Bundeskartellamt Gives Users of Google Services Better Control Over their Data, 5 October 2023 (accessed 23 October 2024). Available at: https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/05_10_2023_Google_Data.html

²¹ Foo Yun Chee, Apple to Delay Launch of AI-Powered Features in Europe, Blames EU Tech Rules, *Reuters*, 21 June 2024 (accessed 14 August 2024). Available at: <https://www.reuters.com/technology/artificial-intelligence/apple-delay-launch-ai-powered-features-europe-blames-eu-tech-rules-2024-06-21/>

threshold of the Member State requesting the referral²². This interaction aims to ensure that the Commission can scrutinise acquisitions that have the potential to stifle innovation by eliminating the project of the acquired company, thereby addressing so-called “*killer acquisitions*” (Cunningham, Ederer, and Ma, 2021). However, to date, the Commission has not yet reviewed any gatekeeper acquisitions following such a referral²³.

Lastly, Vestager initiated several market investigations to keep pace with developments in specific sectors, including e-commerce (2017)²⁴, the Internet of Things (IoT) of connected devices²⁵, as well as Generative AI and virtual worlds (2024)²⁶. These investigations have played a crucial role in shaping competition enforcement and policy. For instance, the e-commerce report informed the revision of the Vertical Block Exemption Regulation, while the IoT report provided valuable insights during legislative debates on the DMA.

2.2. Rewriting the Competition Rulebook

Vestager was compelled to keep pace with the rapidly changing digital landscape. Although she initially did not plan to overhaul the competition rulebook during her first mandate²⁷, the evolving nature of digital markets made it necessary in her second mandate²⁸. This effort aligned with the mission outlined in the 2020 Commission’s Communication on *Shaping Europe’s Digital Future*²⁹.

Between 2019 and 2023, the Commission undertook a comprehensive review of competition policy rules to update its analytical framework, particularly in digital markets. This included revisions to block exemptions, Commission Notices, and Guidelines.

²² C-611/22 P *Illumina, Inc. v European Commission*, ECLI:EU:C:2024:677, 3 September 2024.

²³ European Commission, List of Acquisitions (accessed 8 November 2024). Available at: <https://digital-markets-act-cases.ec.europa.eu/acquisitions>

²⁴ Report From the Commission to the Council and the European Parliament Final Report on the E-Commerce Sector Inquiry {SWD(2017) 154 Final}, 10 May 2017.

²⁵ Report From the Commission to the Council and the European Parliament Final Report Sector Inquiry into Consumer Internet of Things {SWD(2022) 10 Final}, 20 January 2022.

²⁶ European Commission, Commission Launches Calls for Contributions on Competition in Virtual Worlds and Generative AI, 9 January 2024 (accessed 15 August 2024). Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_85

See also Klaus Kowalski, Cristina Volpin, and Zsolt Zombori, Competition in Generative AI and Virtual Worlds, Competition Policy Brief, *European Commission*, September 2024 (accessed 10 November 2024). Available at: https://competition-policy.ec.europa.eu/document/download/c86d461f-062e-4dde-a662-15228d6ca385_en

²⁷ Margrethe Vestager, Competition in a Big Data World, *European Commission*, 18 January 2016 (accessed 14 August 2024). Available at: https://ec.europa.eu/commission/presscorner/detail/ov/speech_16_5224

²⁸ Ursula Von Der Leyen, Mission Letter to Margrethe Vestager, 1st December 2019.

²⁹ Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Shaping Europe’s Digital Future*, 19 February 2020.

The revisions to block exemptions were designed to provide legal certainty to economic actors. They introduced specific provisions on data-sharing and algorithm use (Regulation (EU) 2023/1066, Horizontal Block Exemption Regulations (HBERs)), the online distribution of products and services (Regulation (EU) 2022/720, Vertical Block Exemption Regulations (VBERs)), and technology licensing (Technology Transfer Block Exemption Regulation (TTBER))³⁰.

The revision of Commission Notices aimed to clarify the elements the Commission considers when assessing cases. The updated Market Definition Notice introduced a new analytical framework for defining relevant product and geographic markets (Communication C/2024/1645, Commission Notice on the Definition of the Relevant Market), particularly taking into account multisided platforms and digital ecosystems. Additionally, the revised Informal Guidance Notice set out criteria for when the Commission may provide guidance to firms on novel or unresolved competition issues, thereby enhancing legal certainty (Communication C(2022) 6925, Commission Notice on Informal Guidance). While this guidance does not specifically target digital markets, it is likely to apply to them, given the frequency of novel or unresolved antitrust issues in fast-moving sectors, as highlighted by the competition authorities in Luxembourg, Belgium, and the Netherlands³¹. However, the Commission has not yet publicly announced the use of informal guidance in digital markets.

The proposed revision of the Guidelines on Exclusionary Abuse aims to provide clearer guidance to businesses on acceptable practices by introducing legal presumptions, such as the ban on self-preferencing. It also seeks to align national competition authorities and courts with the Commission's approach³².

Beyond revising the competition rulebook, as the Executive Vice-President for a Europe fit for the digital age during her second mandate, Vestager proposed and adopted several key regulations to reform the digital policy landscape and establish a digital single market. These regulations include content moderation (Regulation (EU) 2022/2065, Digital Services Act (DSA)), contestability and fairness in digital markets (Regulation (EU) 2022/1925, Digital Markets Act (DMA)), data governance (Regulation (EU) 2022/868, Data Governance Act (DGA)), data sharing of connected products and related services (Regulation (EU) 2023/2854, Data Act

³⁰ The public consultation is closed. European Commission, Review of the TTBER and Related Guidelines (Accessed 14 August 2024). Available at: https://competition-policy.ec.europa.eu/public-consultations/2023-technology-transfer_en

³¹ Jacques Steenberghe, Martijn Snoep and Pierre Barthelmé, Joint Memorandum of the Belgian, Dutch and Luxembourg Competition Authorities on Challenges Faced by Competition Authorities in a Digital World, 2 October 2019 (accessed 8 November 2024). Available at: <https://concurrency.public.lu/dam-assets/fr/actualites/2019/Joint-memorandum-version-publiee.pdf>

³² European Commission, Guidelines on Exclusionary Abuses of Dominance (Accessed 14 August 2024). Available at: https://competition-policy.ec.europa.eu/public-consultations/2024-article-102-guidelines_en

(DA)), and the governance of Artificial Intelligence (Regulation (EU) 2024/1689, Artificial Intelligence Act (AIA)).

These regulations often operate in tandem, forming a comprehensive bundle of digital regulations with distinct objectives and requirements. This can lead to both synergies and tensions, as illustrated by data-sharing obligations (**Box 3**).

Box 2: Data-sharing obligations

The DMA, DGA, and DA include provisions aimed at ensuring the sharing of personal and non-personal data. Since digital and AI markets heavily rely on data, these regulations have the potential to enhance competition by lowering barriers to data access and reuse by digital and AI firms.

However, they also create tensions with regulations related to the protection of personal data (Regulation (EU) 2016/679, General Data Protection Regulation (GDPR)). Although data-sharing requirements of personal data are based on obtaining user consent as mandated by the GDPR, they carry risks of potential data misuse by the recipient, even when users consent to share their data. This creates a delicate balance between competition and privacy, as highlighted by joint statements on competition and data by the UK competition and data protection authorities (Competition and Markets Authority and Information Commissioner's Office, 2021) and the French competition and data protection authorities (Autorité de la concurrence and Commission nationale de l'informatique et des libertés, 2023).

3. Vestager's Advocacy Work

Vestager's advocacy work has significantly influenced the broader competition policy discourse. As a social liberal, she has been a relentless advocate for strong competition in Europe, consistently resisting pressures from certain European and national politicians to dilute these efforts.

In this context, Vestager has fortified competition policy by ensuring that markets operate fairly and effectively for the benefit of the people (Section 3.1). Simultaneously, she has staunchly opposed any weakening of competition policy, arguing that robust competition is essential for enhancing European competitiveness (Section 3.2).

3.1. Pushing for Strengthening Competition Policy

Competition policy primarily aims to protect the competitive process, ensuring markets remain dynamic by addressing distortive competitive practices for the benefit of consumers, often

framed as safeguarding "*consumer welfare*." However, the nuances of competition policy can be elusive, even for skilled professionals, and even more so for the general public.

Vestager has brought some clarity to this complexity. She has strongly advocated fairness in competition policy, emphasising the need to level the playing field between European firms and digital giants. In her speeches on digital markets, terms like "*fairer taxation*," "*fair competition*," "*fairer economy*," "*fair deal*," "*fair markets*," and "*fairer digital world*" have been recurrent themes³³. Although fairness has always underpinned EU competition enforcement (Gerard, 2018), Vestager has made it a central focus, asserting that competition must be fundamentally fair.

This emphasis on fairness influenced the DMA, which explicitly aims to ensure fairness in digital markets. However, Vestager has never clearly defined what fairness means. The concept is inherently subjective, which has led to severe criticism from the competition community due to the resulting lack of legal certainty. Even the DMA does not explicitly define fairness; it addresses the concept indirectly by describing unfairness as "*an imbalance between the rights and obligations of business users where the gatekeeper obtains a disproportionate advantage*" (Recital 33 DMA). This ambiguity will likely result in legal challenges, as illustrated in the *Apple Anti-Steering* DMA case (Box 4).

Box 4: Determining fairness in the *Apple Anti-Steering* DMA case

Appl can impose a fee on developers (Recital 40 DMA). A key issue in this case is whether the fee Apple imposes is fair. Apple may argue that the fee is fair, while some developers may view it as unfair. Since the Commission is not a price regulator, this debate could continue indefinitely until a consensus is reached.

Beyond advocating for fair competition, Vestager has made competition policy more accessible to the general public through her "*Making Markets Work for People*" campaign³⁴. Instead of focusing on the technical concept of "*consumer welfare*," Vestager emphasised that "*the only policy goal for markets is to serve the people*"³⁵.

Launched in 2022, this initiative seeks to engage the public in discussions about the economic and social impact of competition and competition policy on their daily lives. The campaign has

³³ European Commission, Speeches (accessed 15 August 2024). Available at:

<https://ec.europa.eu/newsroom/comp/items/itemType/1067?page=1>

³⁴ European Commission, Markets for People (accessed 15 August 2024). Available at: https://competition-policy.ec.europa.eu/about/reaching-out/markets-people_en

³⁵ Margrethe Vestager, EVP Vestager Keynote at the Making Markets Work for People conference, organized by DG Competition, *European Commission*, 27 October 2022 (accessed 15 August 2024). Available at: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_22_6445

included a series of debates held in mid-sized European cities such as Salzburg (Austria), Brno (Czechia), Modena (Italy), Salamanca (Spain), and Aarhus (Denmark).

3.2. Resisting to Weakening Competition Policy

During her first mandate, Vestager faced significant pressure from some Member States, particularly after the 2019 prohibition of the acquisition of French Alstom by German Siemens in the railway sector. This decision sparked public dissatisfaction in France and Germany, leading to a joint call for modernising competition policy through the “*Franco-German Manifesto for a European Industrial Policy Fit for the 21st Century*”³⁶. This was followed by a position paper co-authored with Poland titled “*Modernising EU Competition Policy*”³⁷.

These initiatives advocated for aligning competition policy with industrial policy goals, particularly for the creation of national and European champions. The proposals included considering state interventions from third countries in merger control, addressing the excessive market power of big tech firms, modernising merger control, strengthening European joint ventures and cooperation, enhancing advisory capacities and expertise, and increasing the Council's influence in policy- and decision-making. While some proposals led to legislative changes, such as addressing big tech’s market power through the DMA and DA, Vestager firmly resisted efforts to weaken merger control.

This resistance persisted into her second mandate, especially with the appointment of Thierry Breton, who oversees the single market. Breton advocated for relaxing European merger control to enable industry consolidation, particularly in the telecommunications sector³⁸, and for loosening state aid rules to subsidise industries like clean tech³⁹. This created tensions with Vestager, who was reluctant to pursue such relaxations.

³⁶ France and Germany, A Franco-German Manifesto for a European Industrial Policy Fit for the 21st Century, 19 February 2019 (Accessed 15 August 2024). Available at: https://www.bmwk.de/Redaktion/DE/Downloads/F/franco-german-manifesto-for-a-european-industrial-policy.pdf%3F_blob%3DpublicationFile%26v%3D2

³⁷ France, Germany, and Poland, Modernising EU Competition Policy, 2019 (accessed 15 August 2024). Available at: https://www.bmwk.de/Redaktion/DE/Downloads/M-O/modernising-eu-competition-policy.pdf?_blob=publicationFile

³⁸ Anna Gross, ‘No Taboos’ Over Mergers in EU Telecoms Shake-Up, Says Breton, *Financial Times*, 27 February 2023 (accessed 15 August 2024). Available at: <https://www.ft.com/content/127959ad-71d7-4b91-a438-46bca2d4baa2>.

³⁹ Barbara Moens, Jakob Hanke Vela and Samuel Stolton, EU Industry Boss Hawks Clean Tech Act to Hit Back Against America’s Green Subsidies, *Politico*, 10 January 2023 (accessed 15 August 2024). Available at: <https://www.politico.eu/article/eu-industry-commissioner-thierry-breton-clean-tech-act-america-green-subsidies/>

As the 2019-2024 Commission term ends, renewed calls from European and national politicians for a European-first approach to bolster competitiveness have emerged. Influential reports, such as the Letta report on the single market (Letta, 2024) and the Draghi report on EU competitiveness (Draghi, 2024), have argued for a relaxation of merger control to facilitate more cross-border consolidations. Vestager, however, has firmly opposed these proposals, maintaining that competition within Europe is crucial to fostering the European industry's global competitiveness⁴⁰.

Despite Vestager's strong stance, her final resistance may not carry over into the next Commission. In her 2024-2029 Commission political guidelines, re-elected President Von der Leyen called for "*a new approach to competition policy*," notably revising merger control to support firm scale-ups in global markets (Von der Leyen, 2024). In line with this statement, the mission letter for the incoming Competition Commissioner emphasises the need to modernise competition policy to enhance European firms' competitiveness. This includes a particular focus on revising the merger control guidelines⁴¹.

4. Policy Recommendations

This paper underscores the vigorous competition enforcement and advocacy under Vestager's leadership, which promoted competition in digital markets while resisting efforts to weaken competition policy for the stake of European competitiveness. Building on this legacy, the paper proposes the following policy recommendations for the incoming Competition Commissioner.

Recommendation 1: Improve coordination in enforcing digital regulations to ensure policy coherence.

Digital regulations increasingly overlap with each other. While these frameworks are designed to complement or clarify one another, the overlaps can create risks of inconsistency. Such inconsistencies lead to higher transaction and compliance costs and business legal uncertainty.

To address this, the incoming Competition Commissioner should develop a clear enforcement strategy to ensure consistency. This strategy should prioritise close cooperation with other Directorates-General responsible for digital policies, as well as collaboration with European networks of national authorities, including the European Competition Network (ECN). This

⁴⁰ Margrethe Vestager, Speech by EVP Margrethe Vestager at the EU Competition Day: Competition and Competitiveness in Uncertain Geopolitical Times, *European Commission*, 26 April 2024 (Accessed 15 August 2024). Available at: https://ec.europa.eu/commission/presscorner/detail/en/speech_24_2324

⁴¹ Ursula Von Der Leyen, Mission Letter to Teresa Ribera Rodríguez, 17 September 2024 (accessed 8 November 2024). Available at: https://commission.europa.eu/document/download/5b1aaee5-681f-470b-9fd5-ae14e106196_en?filename=Mission%20letter%20-%20RIBERA.pdf

coordinated approach will help maximise synergies and minimise tensions between regulatory frameworks at both the European and national levels.

Recommendation 2: Deepen expertise in digital and AI markets to keep pace with rapid technological change.

Digital and AI markets are evolving rapidly. Emerging technologies can profoundly reshape competitive dynamics at speed, outpacing the response time of competition laws and regulations. At the same time, regulations like the DMA have significant implications for innovation, potentially constraining business practices and slowing technological progress in Europe.

To address these challenges, the incoming Competition Commissioner should prioritise strengthening the Commission's expertise in digital and AI markets. This can be achieved by expanding hiring efforts to bring in more specialists and providing training to staff on emerging digital and AI markets. Additionally, the Commission should conduct an annual horizon-scanning exercise to stay ahead of technological developments, complemented by market investigations as needed to gain deeper insights into key digital sectors.

Finally, fostering collaboration with gatekeepers on the implementation of emerging technologies will be essential. By working together to ensure that innovative products and services comply with European competition laws and digital regulations, the Commission can support a timely competitive digital landscape in Europe, especially in critical sectors like AI.

Recommendation 3: Implement a pro-competitive growth strategy to strengthen European competitiveness.

Competition and competitiveness are essential for driving innovation and growth in Europe. While some policymakers view competition policy as potentially conflicting with competitiveness, in practice, they are complementary. Recent proposals, like those in the Letta and Draghi reports, suggest changes to merger control and state aid rules to enhance competitiveness, but they lack a clear pro-competitive strategy.

To fill this gap, the incoming Competition Commissioner should develop a pro-competitive growth strategy that aligns competition policy with competitiveness. A dedicated economic and policy unit should examine how competition policy affects European competitiveness's key drivers and obstacles. Based on these insights, the Commission should leverage appropriate tools to support growth in Europe, ensuring that these actions do not compromise competitive markets. If evidence suggests that aspects of competition policy hinder competitiveness, the unit should recommend targeted revisions to mitigate these effects.

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About

Digital Competition

Digital Competition (www.digital-competition.com) is a research and advisory firm dedicated to advancing open digital and competition policies that promote innovation. We offer research, consultations, and training sessions and actively participate in conferences on emerging and complex issues in digital and competition policies worldwide. This working paper was conducted independently with no financial support. We thank Assimakis Komninos for his comments on the first draft.

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