

The Role of Competition Law in Preserving the Right to Free and Plural Media

The project aims to provide an analysis of the role of competition law in preserving the individual's right to free and plural media in Europe. The media, as the fourth pillar of democracy, plays an extremely important role in societies by disseminating information and shaping public opinion. In this light, freedom and pluralism of media constitute fundamental values and cornerstones of modern democracies. The Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and national constitutions require states to ensure the protection of freedom of expression, the right to receive and impart information and ideas without interference from public authorities. However, these values can be threatened by economic processes on the media markets leading to the accumulation of significant market power by a few players. Market processes negatively affecting media freedom and pluralism have increased in recent years, particularly due to the crisis of democracy in Central-Eastern European countries, the growth of online media based on algorithms and artificial intelligence, or the effects of the COVID-19 pandemic, in the shape of both economic crisis in the media industry and selective government support of certain media outlets.

Competition law, dealing with restrictive agreements, abuse of dominance or merger control, may not seem at first sight as an obvious legal solution to ensure the protection of media freedom and pluralism. However, transactions and practices on media markets can have a negative impact on the state of media freedom and pluralism. Therefore, competition authorities, which occupy themselves with analysing and assessing the companies' behavior also on media markets, through for example allowing a concentration limiting media diversity, may directly or indirectly affect an individual's right to free and plural media. It is therefore necessary to develop competition law solutions that take due account of the impact of the assessed practices on media freedom and pluralism.

This project seeks to answer the question under what conditions competition law can preserve the individuals' right to free and plural media. To this end, the project analyses the substantive and procedural competition law in the European Union and its Member States to the extent that the enforcement of competition law concerns media markets. In particular, the project assumes an in-depth study of Polish competition law as well as the decision-making practice of the Polish Competition Authority and the Warsaw Court of Competition and Consumer Protection. In addition, the research on the enforcement of competition law in the media markets in Poland will be enriched with interviews with representatives of the Authority, the Court, the National Broadcasting Council, as well as representatives of civil society organisations involved in the protection of media freedom and pluralism, in order to better understand the functioning of the law in practice and its relevance in the society. Given the impact of populist governments both on the state of media freedom and pluralism and on competition law enforcement, the project contributes to the discussion on the crisis of the rule of law in Europe. Furthermore, the project addresses the issue of media freedom and pluralism in both traditional and new media markets, given the challenges posed by the development of new technologies and the internet. By adopting these perspectives, the project fills important gaps in the literature and its innovative research methods ensure its uniqueness.

The most significant expected outcome of the research will be the identification of factors determining the role of competition law in the protection of media freedom and pluralism. Outlining the conditions under which competition law can preserve media freedom and pluralism can, in turn, serve to better protect these values and, as a result, the fundamental rights of consumers-citizens. The results of the research therefore enrich science by contributing to the development not only of European and Polish competition law, but also of human rights and constitutional law. The research will be disseminated in Europe and Poland through participation in international conferences and publication of articles in English in scientific journals of worldwide and European circulation. The project is also of great importance for the doctoral dissertation I am preparing on the role of competition law in protecting media freedom and pluralism.