

# Kluwer Competition Law Blog

## Book Review – Abuse of Platform Power: Leveraging Conduct in Digital Markets under EU Competition Law and Beyond, by Friso Bostoen

Alba Ribera Martínez (Deputy Editor) (University Carlos III of Madrid, Spain) · Monday, August 21st, 2023

Platform regulation and the functioning of ecosystems have been two elusive concepts to tackle from a neutral perspective, away from the polarised narratives advocated by different schools of thought on both sides of the Atlantic. The General Court's rulings in both Google Shopping and Google Android are good proof of that. Against this titanic challenge, Bostoen chips into his well-constructed literature (issued in the past years with a focus on intra-platform exclusion and strategies on open early and closed later) transforming it into a corpus of literature, case law and nuanced intuitive conclusions around the narrow scenario of intra-platform exclusion, i.e., the exclusion of suppliers from the ecosystem holder's realm.

The book follows three different strands of thought, by segmenting the narrative of digital platforms sequentially from the academic debate to the policy implications of those same insights brought into the regulatory sphere.

The first part of the book delves into the literature around multi-sided networks, indirect effects and feedback loops. Contrary to the usual tellings of the story, Bostoen's account of the literature does not back itself into a corner, but instead it gazes forward and across to the (not-so-well-accounted for) literature coming from strategic management. This section of the book sets the record straight in providing -underexplored and- novel concepts into the competition law matrix. By this token, Bostoen is not a storyteller of sorts in reuniting the relevant academic background into the page, but an authentic transcriber of economic reality into antitrust.

Moreover, the second part of the book fits into the classical (and perhaps more common) approach towards exclusion, i.e., the setting out of the theories of harm which can be construed upon the concept under the current paradigm prevailing under Article 102 TFEU. In this regard, this section successfully delivers on its promise to rationalise the -sometimes ambiguous- analysis of the forms and shapes that an abuse of a dominant position may adopt in the context of digital platforms. Bostoen does not shy away from the challenge of telling the wrongs apart from the well-established and founded assumptions underlying the current interpretation of Article 102 TFEU. By this same token, each manifestation of abuse is correspondingly united to a solution and to an immediate proposal on how to re-adapt the forms of abuse to the digital arena. In doing so, Bostoen is not so daring to formulate the panacea for the reconstruction of antitrust in a few pages. Instead, the composition of the subsequent chapters of this part of the book signals a different

academic endeavour: the demonstration that the future of EU competition law might not be found in setting in stone widespread solutions applicable to all types of platforms, but rather in setting out a profound and substantive understanding on the idiosyncrasy of each one of them to assess their outcomes in that same bespoke fashion.

And finally, the third part of the book complements the second by providing its regulatory counterpart to the substantive analysis of anti-competitive conducts and forms under Article 102 TFEU. This last part of the contribution is conceivably the most theoretical and less proactive in nature. Against the yardstick of telecommunications regulation, Bostoën remarks on the different models that regulation can adopt to establish the need for the Union legislator to consider digital platform regulation as an intricate and potentially counterproductive exercise (if regulation was to be stretched too far away from the weights and balances present in the biologically-inspired characteristics of digital ecosystems). Even though the final section of the book is, in fact, cautious in its conception, it leaves ample leeway for further reflection on whether the EU's current regulatory approach is ill-fated starting from its own conception or whether the enforcer must tread quickly and lightly on the challenges of futureproofing and monitoring effective compliance.

Ultimately, Bostoën's contribution is unique in its formulation and style, by providing both scholars and competition authorities (and hopefully, students!) with a roadmap in orienting their approaches to the re-telling and re-constructing of the narratives that diverge from economic reality in the digital platform sphere. Throughout the book, arguments are not construed in a vacuum but incrementally from the simplest of ideas to the most articulate thoughts, with support on well-grounded economic theorems and the legal limitations and contours that the European Commission and the Court of Justice have been adamant in defending during the years. In this sense, the book should be at the top of the wishlist of any other antitrust academic with a wish to advance the current stagnant memoirs of EU competition law to a field of law in state of flux and welcoming of change.

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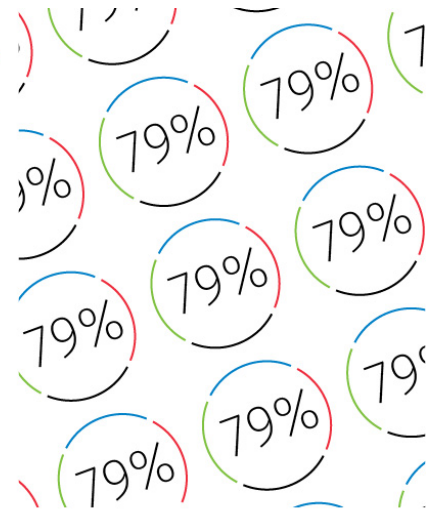
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