

Annual
Report

2019



According to article 7, paragraph 5 of the amended Competition Act of 23 October 2011, « the Council draws an annual report of its activities which records its own important decisions, taking care to specify if these decisions are final. The report is forwarded to the Minister and the Luxembourg Parliament. It will be available to any interested person ».

Table of contents

From the President	4
I. Presentation of the Council	7
A. Organization	7
B. Fields of competence.....	9
II. Activities of the Council in 2019	10
A. Litigation activities.....	10
B. Advisory activities.....	14
C. Sector inquiries.....	14
III. Cooperation activities	16
A. At a national level	16
B. At a European level	17
Plenary and Directors-General meetings	17
Working Groups on specific sectors	21
Advisory Committee.....	22
C. At an international level	25
IV. Awareness-raising and communication actions (advocacy)	27
A. Website.....	27
B. Newsletter.....	27
C. Social Networks	28
V. Learning activities.....	29
A. Seminars provided by the Council	29
B. Learning courses attended by the Council's employees	30

From the President

The tasks of a competition authority include the application of national and European competition law, an advisory function, but also, by extension, a consideration of the **permanent and necessary adaptation** of the tools at its disposal, as well as the **promotion of an effective competition policy** at the service of society.

While the application of **competition law** remains the primary task of any competition authority, other tasks, certainly less well known to the public, are equally important.

As regards the application of competition law, the Council has dealt with several **complaints** and opened **several investigations**, as well as **sector inquiries**. This tool has been used to analyze the brewery and pub sector in the Grand Duchy of Luxembourg. In concluding its report, the Council found a possible infringement of the competition rules and considered that further investigation of practices on the out-of-home beer consumption market was necessary.

Thus, the Council must also give its opinion, via its **advisory role**, on draft laws or regulations, which was the case in 2019, notably concerning a draft regulation on public procurement.

The year 2019 was also marked by the publication of the eagerly awaited **Directive 2019/1**, known as the "ECN+" Directive, which, as part of the decentralized system for implementing competition law, should improve the uniform application of this law throughout the European Union. Its objectives are to ensure that the competition authorities of the Member States have the guarantees of independence, resources and powers of coercion and sanction, necessary for the effective application of Articles 101 and 102 of the Treaty on the Functioning of the European Union. During this year, the Council has thus devoted part of its resources to preparing the transposition of this Directive into national law, for which the deadline for transposition is 4 February 2021. This was a major task, as this transposition has been used to carry out a thorough overhaul of the Competition Act. The draft bill, tabled at parliament 1 October 2019 on the organization of the national competition authority, should strengthen the missions of the Luxembourg competition authority. Furthermore, the introduction of a **settlement procedure**, a flexible procedure for dialogue, is a novelty that should make it possible to shorten the procedural time of certain cases.

Still on the subject of adapting the tools of competition law, the Council drew the attention of interested parties to **two major projects launched by the European Commission** in 2019.

The first one concerns the Block Exemption Regulation applicable to vertical agreements - Regulation 330/2010 - that will expire on 31 May 2022. Reflections on the renewal or recasting of this regulation, which exempts vertical agreements from prohibition under certain conditions, are at the consultation stage. The Regulation is of particular importance for the Grand Duchy, where many companies claim that they are still subject to territorial restrictions by their international suppliers. The Council has participated in the efforts of the Benelux countries to draw the attention of the European Commission to this issue.

The second concerns two block exemption regulations, applicable to horizontal agreements, which will expire on 31 December 2022. These regulations exempt certain horizontal agreements from the prohibition set out in article 101 of the Treaty on the Functioning of the European Union and may be of interest to anyone who has concluded research and development or specialization agreements.

As in previous years, the Council's councilors and collaborators actively participated in the work of international competition law bodies.

Firstly, at the European level within the **ECN, the European Competition Network**, whose primary objective is to coordinate the action of all national authorities of the Member States of the European Union, in order to ensure a coherent application of competition law throughout the Union. For some years now, two topics have been recurring at these meetings, namely the European Union's industrial policy in a globalized economy and the impact of the digitalization of the economy on the action of authorities and competition policy. Are the current tools of competition law adapted to the digital world, with, among other things, its phenomena of big data, network effects and monopolization of information thanks to new and supposedly free services? This is one of the many questions facing competition authorities.

Secondly, **at the international level**, the Council has joined the **CAP - Framework for National Competition Authority Procedures** - as part of the International Competition Network (**ICN**), a cooperation tool designed to promote procedural fairness by ensuring fair and effective cooperation between national competition authorities.

In this international context, the Council participated in the drafting of a **joint memorandum** together with the competition authorities of the Benelux countries on the challenges posed by digitalization and the rapid development of digital markets. More specifically, the "*Joint Memorandum*" focused on three aspects: mergers in the digital environment, the introduction of an ex ante system of advice for rapidly developing markets, and the possible introduction of an ex ante instrument providing for binding commitments for undertakings, without characterizing an infringement.

A review of the past year would still be incomplete without an outlook at the year 2020:

With the likely adoption of the law reforming national competition law for the year 2020, the Council should transform itself into a **Competition Authority** benefiting from the independence of a public institution.

Upstream of investigations into anti-competitive practices, **sector inquiries** will remain the tool of choice for understanding the dynamics of markets where effective competition appears weak. A report on **pharmaceutical markets** is being finalized, and investigations in other sectors are foreseen.

It is the duty of any competition authority to promote the "good cause", i.e. to **promote awareness of the benefits of competitive markets**: ensuring the best prices, quality, innovation and choice. Competition is the primary driver of innovation and

efficiency improvements, which alone can boost purchasing power and thus the standard of living of all citizens.

An example of this obligation for each competition authority is the changes in Amazon's General Terms and Conditions (GTC). Following the intervention of the Bundeskartellamt, the Austrian Competition Authority and the Competition Council, the amendments to the GTCs should improve the negotiating position of companies active on Amazon's marketplace. The new GTCs entered into force on 1 July 2019 throughout Europe.

Competition policy is thus also in line with the implementation of the **Rifkin strategy**, which aims at a sustainable development by increasing productivity rather than production.

Finally, the Council's **advocacy** mission has been strengthened. In a digital world, this translates into the regular management of our website, a presence on social networks, notably [Twitter](#) and [LinkedIn](#), and the regular publication of a newsletter "*Competition issues in Luxembourg and abroad*".

The year 2020 is shaping up to be a **pivotal year** for the Competition Council; a year marked by challenges, but always driven by the firm determination to fulfil its mission of **protecting businesses and consumers**.



Pierre Barthelmé

President of the Council

I. Presentation of the Council

A. Organization

Structure of the Competition Council

Established by the amended Competition Act of 23 October 2011 (hereinafter: the "Competition Act"), the Competition Council (hereinafter: the "Council") is an independent administrative authority whose role is to guarantee free competition and ensure the proper functioning of the markets.

The Council is composed of four effective members, including a President and five substitute councilors. It relies on the collaboration of six investigators and an administrative secretary.

Role of the effective councilors

The President provides leadership to the Board. He or she shall convene and chair the meetings of the College, ensure the smooth conduct of discussions, oversee that the Council's decisions are implemented and ensure the proper functioning of the service. He represents the Council in all judicial and extra-judicial acts.

For each case, he appoints an effective councilor responsible for the investigation phase. The designated councilor collects incriminating and exculpatory evidence relating to the practices under investigation.

In order to guarantee the principle of separation between the investigation and decision-making phases, the adviser who has investigated a case may not take part in the collegial decision-making process. The same principle prevents the President from taking on investigative missions.

Role of the substitute councilors

Substitute councilors shall be called upon to take place in the decision-making process if one effective councilor is absent or unable.

Role of investigators

The Council's investigators assist the councilors in their missions.

Staff

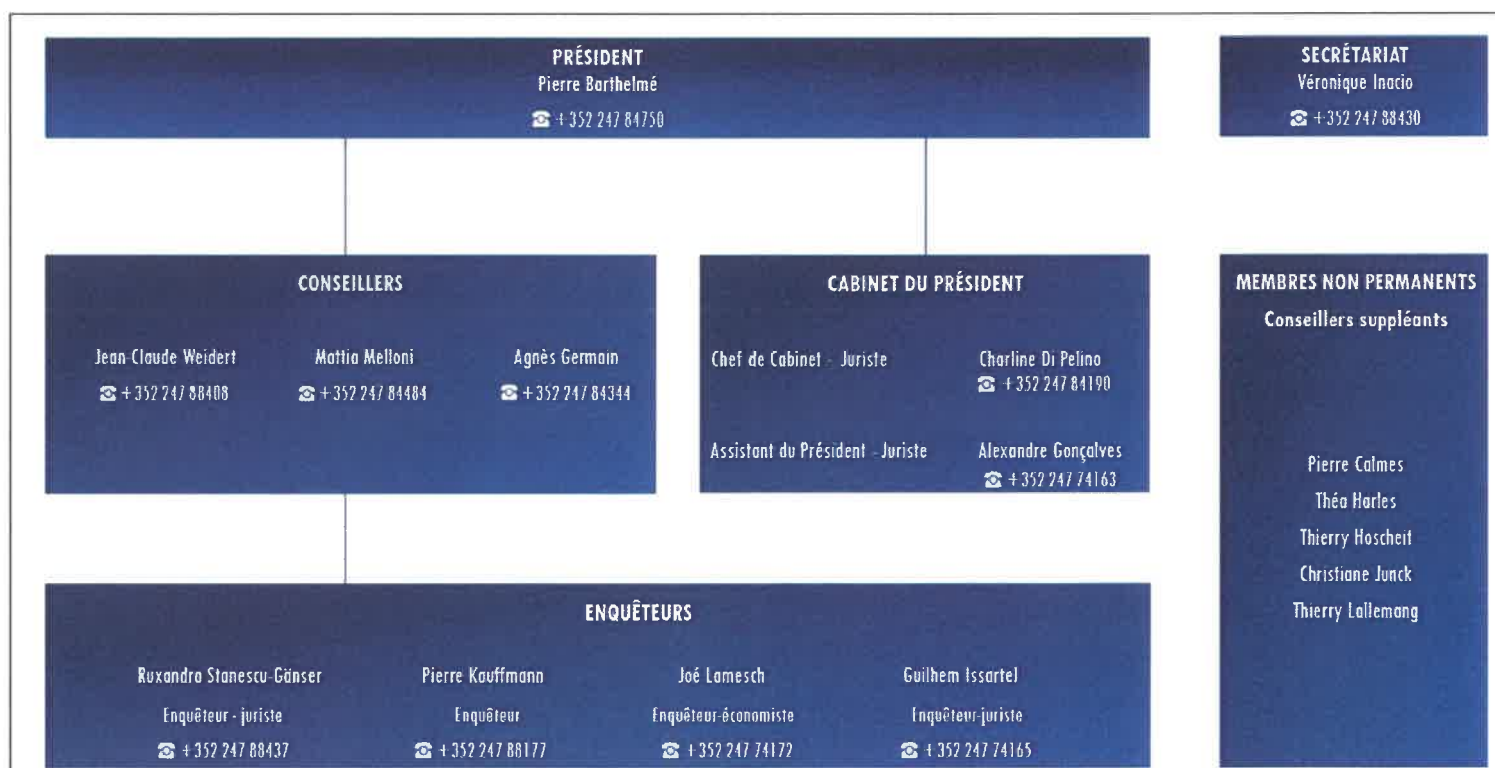
As of December 31, 2019, the Council has a total of 11 employees:

- 4 effective councilors, including one acting as President;
- 6 investigators;
- 1 part-time secretary.

In addition, the Council may also call upon persons who do not hold full-time positions on the Council, namely:

- 5 substitute councilors, notably from the magistracy, who are called upon to sit on the collegial decision-making body;
- 3 "non-governmental advisors" represent the Council (within the International Competition Network), namely Marc Barennes, Thierry Reisch and Vivien Terrien.

During the year, the Council welcomed three new members of staff, namely Pierre Kauffmann, Joé Lamesch and Guilhem Issartel, who act as investigators. On 1 October, Mr. Lucas Grandjean joined the Council to compensate for the temporary absence of Mrs. Ruxandra Stanescu.



Organizational chart of the Competition Council at 31 December 2019

B. Fields of competence

In carrying out its functions, the Council seeks to protect not only the interests of consumers but also the interests of undertakings against anti-competitive behaviour by competitors that may have the object or effect of restricting competition.

Article 6 of the Competition Act defines the tasks, competences and powers of the Council, which can be summarized as follows:

- the Council applies Articles 3 to 5 of the Competition Act, as well as Articles 101 and 102 of the Treaty on the Functioning of the European Union (hereinafter: "TFEU"), namely the prohibition of cartels and abuses of dominant position;
- it represents the Grand Duchy of Luxembourg within the ECN, the European network of competition authorities;
- it drafts opinions on any draft legislative or regulatory text or any other measure relating to competition issues;
- it may carry out an investigation into a particular sector of the economy or a particular type of agreement in different sectors when the development of trade, price rigidity or other circumstances give rise to a presumption that competition may be restricted or distorted;
- it may inform undertakings of the interpretation it intends to give to Articles 3 to 5 in relation to new and unresolved issues by means of informal information letters;
- it cooperates with the European Commission as well as the competition authorities of other Member States, in accordance with the provisions of Regulation (EC) No. 1/2003 of 16 December 2002.

II. Activities of the Council in 2019

A. Litigation activities

Under article 11 of the Competition Act, the Council may find that there has been an infringement of competition law and may issue a decision obliging the perpetrators to bring the infringement to an end. The final decisions of the Council in 2019 are set out hereafter.

For confidentiality reasons, this report does not include cases that are still under investigation or at the decision-making stage.

- Decision n°2019-R-01 – Fédération des artisans

By decision of 15 March 2019, the Council dismissed a complaint for insufficient grounds.

The complaint denounced the acquisition of the entire capital of Paul Wagner & Fils by the Encevo group, as it would have presented serious risks that these companies would adopt in the future several forms of abusive behaviour leading to a restriction of competition on the concerned markets. Guided by the Continental Can case law, the complainant further argued that this acquisition constituted an abuse of a dominant position in itself, given its harm to a competitively effective structure.

Based on the elements given by the complainant, the Council considered that there were not sufficient grounds to open proceedings.

This decision of the Council is currently the subject of an appeal before the Administrative Court of and in Luxembourg.

- Decision n°2019-MC-01 – Amazon Services Europe S.à r.l.

By decision of 3 July 2019, the President of the Council rejected a request for interim measures.

The application concerned Amazon's conduct towards the applicant, which was operating as a third party merchant on Amazon's platform (Amazon Marketplace). By deleting his user account, Amazon allegedly committed an abuse of a dominant position prohibited by Article 5 of the Competition Act and Article 102 TFEU.

As the conditions for the adoption of interim measures were not met in this case, the President of the Council rejected this request.

This decision is also the subject of an appeal before the same court¹.

- Decision n°2019-C-02 – Ordre des Architectes et des Ingénieurs-Conseils et Monsieur Carlo Franck dans l'exercice de son activité économique d'architecte

At the end of 2019, the Council dismissed a complaint alleging a breach of the commitments by the Ordre des Architectes et des Ingénieurs-Conseils (French Order of Architects and Consulting Engineers) made binding by Decision no. 2014-E-02 dated February 5, 2014, and an alleged anti-competitive agreement aimed at fixing the amount of architects' fees by applying tables, between the Order and its members, including Carlo Franck.

Following an in-depth investigation, the designated councilor concluded that there was insufficient evidence to establish a breach of undertakings by the professional order or an anti-competitive agreement between the order and its members.

The Council followed the designated councilor's findings and closed the case.

The time limit to appeal this decision is still running.

The Council received a request from the complainant to withdraw his name and confidential information in this decision, which the Council granted.

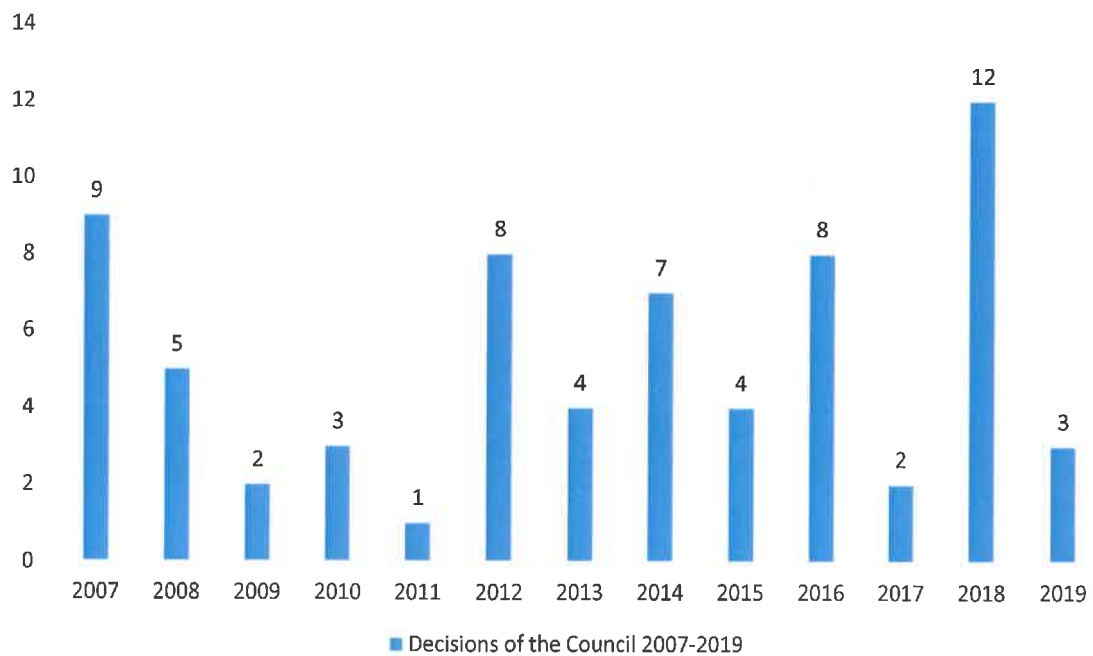
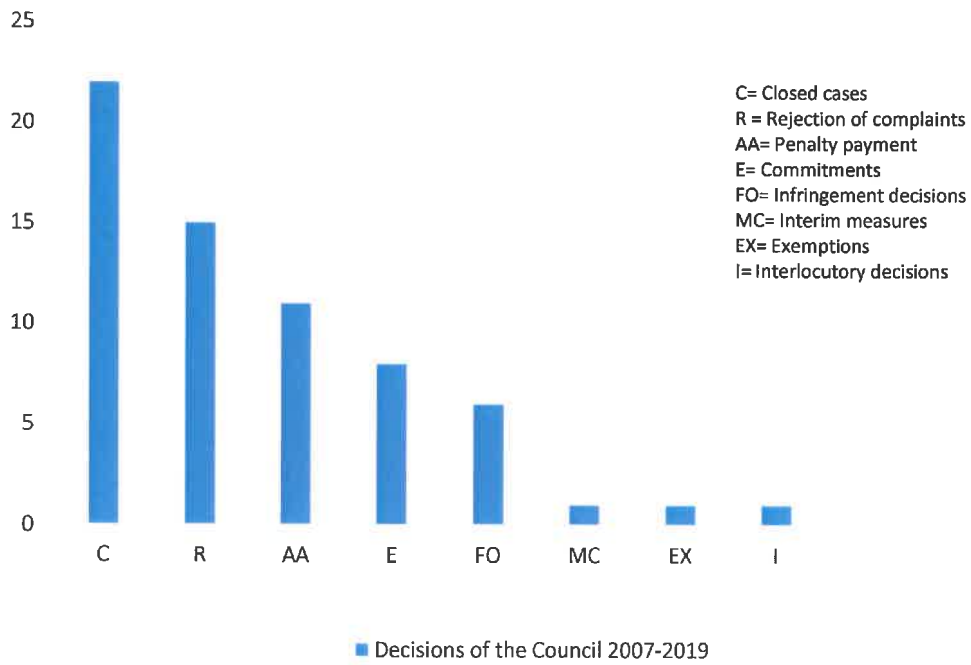
¹ See supra, decision n°2019-R-01, Fédération des artisans.

Summary table of decisions adopted in 2019

Date	Case	Decision	Appeal
15/03/2019	2019-R-01 – Fédération des artisans	Dismissal of the complaint	Yes
3/07/2019	2019-MC-01 – Amazon Services Europe S.à r.l.	Rejection	Yes
20/12/2019	2019-C-02 – Ordre des Architectes et des Ingénieurs-Conseils et Monsieur Carlo Franck dans l'exercice de son activité économique d'architecte	Dismissal	*

* The time limit for filing an appeal is still running.

Chart of decisions adopted by the Council between 2007 and 2019



B. Advisory activities

Under article 29 of the Competition Act, the Council has an advisory role. In this context, the Council expresses an opinion, on its own initiative or at the request of the Minister, on any question concerning competition.

In 2019, the Council published the following opinion:

Opinion n°2019-AV-01 on the draft regulation amending the regulation of 8 April 2018 implementing the amended law of 8 April 2018 on public procurement and amending the threshold provided for in Article 106 point 10° of the amended communal law of 13 December 1988.

Following the intervention of the Council, Valorlux a.s.b.l. withdrew the reference to a fixed price for the marketing of its reusable "eco-bags". From now on, Valorlux mentions a recommended retail price to distributors, specifying that the latter are free to apply it or not.

C. Sector inquiries

According to Article 30 of the Competition Act, the Council may carry out an inquiry into a particular sector of the economy or into a particular type of agreements across various sectors when the trend of trade, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted. At the end of the investigation, it may publish a report setting out its findings.

In 2019, the Council published two sector inquiry reports:

Sector inquiry report in the retail sector

For several years now, Luxembourgish retailers have regularly complained about their supply conditions, which discriminate against trade from neighbouring countries, thereby distorting cross-border competition. This concern had been echoed by the government, which had made it a political priority and works to eliminate these distortions through various international bodies.

These concerns have been heard by the Council, which carried out an inquiry into the food distribution sector in the Grand Duchy of Luxembourg, the results of which have been published in this report.

The data gathered by the Council during its investigation did not enable it to establish the existence of vertical restraints that are reprehensible under competition law. The Council was unable to conclude that there were any practices which would oblige distributors in Luxembourg to obtain supplies on a specific market, characterized by less favourable purchasing conditions than on another, and which would not be authorized under the competition rules.

The report can be consulted at <https://conurrence.public.lu/fr/avis-enquetes/enquetes/2019/enquete-secteur-grande-distribution.html>.

Brewery Sector Inquiry Report

While access to the market for the sale of alcoholic beverages in Luxembourg is regulated by the existence of a limited number of licences, it is largely dominated by two players, Brasserie Nationale and Brasserie du Luxembourg, without any major new competitors emerging in this sector.

The relevant market is also characterized by the existence of a large number of exclusive 'beer contracts' between the operator of an outlet and the brewery holding the licence or renting the premises of the outlet.

The Council has therefore launched an inquiry into the Luxembourg brewing sector.

The inquiry enabled it to understand the organization of the sector and to clarify the contractual relations between the various players, in particular the percentage of the market covered by exclusivity agreements and the extent of overlap between breweries and distributors. It also enabled the Council to highlight the importance of the obstacles to competition in this sector.

At the end of its investigation, it found a possible restriction of competition on the "out-of-home beer" market and considered that the question of breweries' compliance with the competition rules needed to be examined in greater depth.

The Competition Council also noted that liberalization of access to the market for the sale of alcoholic beverages would be a desirable development in the regulatory market environment. The report of the inquiry can be found under <https://conurrence.public.lu/fr/avis-enquetes/enquetes/2019/rapport-enquete-brasseries.html>.

III. Cooperation activities

A. At a national level

Informal consultations

The Council gave during the year its opinion on many competition issues included in parliamentary questions and questions for preliminary rulings.

Preparatory works

The Council has devoted part of its resources to preparing the transposition of the ECN+ Directive into national law, for which the transposition deadline is 4 February 2021. This was a major task, as this transposition has been used to carry out a thorough overhaul of competition law.

Conferences



On 11 June 2019, the Council participated at the fourth Luxembourg Competition Day. Organized jointly by the Association for the Study of Competition Law (ALEDC) and the Chamber of Commerce. It was an opportunity for the President of the Council to speak on the theme "*Competition law in the age of digitalization*". The Council's speech is available on the website <https://concurrency.public.lu/fr/actualites/2019/Conference-2019.html>.

B. At an European level

1. ECN meetings

As in previous years, the Council has actively participated in the development of European competition policy within the European Competition Network (hereafter: "ECN"). This part of the Annual Report gives an overview of the debates in which the Council has participated within the ECN.

The steering of the ECN's work in the various horizontal and sectoral expert groups is ensured by the meetings of the Directors-General, which are prepared by the plenary meetings.

Plenary and Directors-General meetings

The ECN plenary meetings were held in Brussels on 23 May and 22 October 2019.

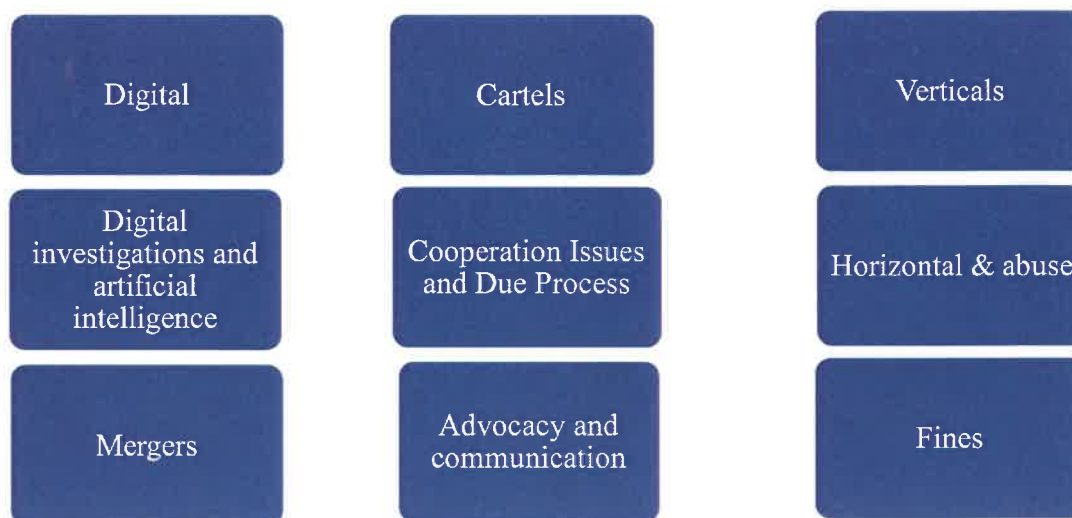
At these two meetings, the national competition authorities (hereafter "NCAs") and the European Commission discussed a number of issues. The most important were: the Commission presented the draft Notice on the protection of confidential data before national courts in recovery cases, the new guidelines on private enforcement pass-on and the E-Leniency platform launched on the Commission's website on 19 March 2019. The Commission has made this new IT tool available 24 hours a day, 7 days a week for leniency applicants. The NCAs, for their part, presented the respective state of play, at the national level, of the transposition of the "ECN +" Directive which will enter into force in February 2021.

Meetings of the Directors General were held on 25-26 June 2019 and 26-27 November 2019.

"Horizontal" expert groups

These groups bring together representatives of each NCA and the Commission, with the aim of promoting greater consistency in their decision-making practice.

There are currently nine expert groups:



In addition to these groups, a working group brings together the Chief Economists of the NCAs.

Working Group on Cooperation Issues and Due Process (WGCIDP)

This working group, whose aim is to study the national procedures of each competition authority and to identify areas where potential convergence actions could be taken to ensure more effective implementation of Articles 101 and 102 TFEU, met three times during 2019, on 7 March, 24 May and 1 October.

The activity of the Working Group on Cooperation Issues and Due Process focused mainly on two projects, namely the one on mutual assistance as referred to in Chapter VII of the ECN+ Directive and the one on the method of calculation of fines by NCAs.

Working Group on Cartels

This working group, whose aim is to build and consolidate with each national competition authority a genuine European anti-cartel policy, met twice during 2019, on 3 April and 14 & 15 October.

At the first meeting, the discussions and presentations focused mainly on the compliance programme models drafted by the NCAs. The other major theme of the 14 and 15 October was the detection of cartels in public procurement and the role of the leniency applicant when committing to cooperate with NCAs.

Working Group on Fines

This working group did not meet during 2019.

Working Group “Horizontal and Abuse”

This working group, aimed at identifying specific and topical issues for NCAs in the area of horizontal anti-competitive practices and abusive behaviour, met twice in 2019, on 29 March and 24 September. In March, discussions focused on the Commission's decision in the *Google Android* case. In September, the NCAs presented several topics of national interest such as the *Nasdaq* judgment in Sweden and the new guidelines on cooperation between competitors published by the Dutch authority.

Working Group on Verticals

This working group deals with issues relating to vertical anti-competitive practices, i.e. between undertakings active at different levels of the production or distribution chain. It met on 2 April and 17 October 2019 in Brussels.

The first meeting was entirely dedicated to the preparatory work for the extension or reform of Regulation 330/2010, which expires on 31 May 2022. This regulation exempts certain vertical agreements from the prohibition of cartels laid down in Article 101 of the Treaty on the Functioning of the European Union. The regulation is of particular importance for Luxembourg companies as it may be of interest to anyone who has had territorial restrictions imposed on them by their suppliers.

The European Commission launched a public consultation on the application of this regulation in February 2019. The objective of this consultation was to gather information on the functioning of this exemption regulation, in order to decide on its follow-up. NCAs submitted to the European Commission their assessment of the application of the Regulation in relation to its efficiency, relevance and benefit. In this assessment, the Council stressed the need to prevent anti-competitive territorial restrictions incompatible with the internal market.

The second meeting dealt, in addition to Regulation 330/2010, with the treatment of agency agreements under competition law and the issue of retail price maintenance (RPM).

Digital Working Group

The first meeting of this working group took place on 7 February 2019, with a workshop organized on the premises of the French competition authority. Five main points were developed there, including, in particular, online platforms and the creation of specialized digital services within various competition authorities.

The meeting on 20 June was primarily dedicated to the proceedings launched by several national authorities in Germany, Austria and Luxembourg and by the European Commission against the Amazon group. Professor Richard Wish then proposed a more general reflection on competition law and the digital economy.

Finally, on 9 October, the group discussed the evolution of the legal framework of competition law in the digital sphere. Various cases concerning platforms were again at the heart of the discussions (*Apple/Spotify; Allegro*), before the participants tackled the issue of algorithms.

Chief Economist Group

This working group met on 15 May and 15 October in Brussels. The aim of this group is to bring together the heads of the economic departments of NCAs and the European Commission in order to stimulate an exchange of views on economic analysis in the context of NCA actions.

The first meeting addressed the issues raised by the so-called Most Favoured Nation provisions in vertical contracts, non-competition agreements, information exchange and various aspects to be considered when analyzing mergers.

The second meeting focused on counterfactual analyses, the challenges of the digital age, discussions on European industrial policy and the question of the spillover of efficiencies into retail markets in merger cases.

Working Group on Advocacy and Communication

This working group, which allows the different NCAs to share their awareness-raising initiatives, met on 9 April 2019. The Commission was able to present the results of its study designed to measure the perception of EU citizens of competition law. Discussions then focused on the communication of competition authorities, through the publication of practical guides, the development of communication campaigns and their presence on various social networks.

Working Group on Mergers

As Luxembourg has not introduced any legal provisions on mergers, the Council did not follow this working group.

Working Groups on specific sectors

The ECN also has various working groups focusing on specific economic areas or sectors. In 2019, the Council followed the work of groups specific to the food sector, the banking sector, the telecommunications sector and the online booking platforms sector.

Food Sector

This working group met on 23 January and 21 October 2019.

The presentation of the Directive on unfair commercial practices in business-to-business relations in the agricultural and food supply chain opened this first meeting. Various competition authorities subsequently described their recent decisions in this sector. It is in this context that the Council set out its decision n°2018-FO-03 Luxlait, by which it dismissed a complaint against Luxlait, the umbrella association for the production and distribution of dairy products, for the practice of resale price maintenance.

The group also met on 21 October 2019. After a description of recent decisions adopted in this area by various competition authorities, discussions focused on various Commission initiatives, including its assessment of European consumer law and its study on territorial restrictions on supply.

Banking Sector

This group met for the first time on 20 May 2019. In addition to an update on the investigations carried out by various competition authorities in this sector, the group focused in particular on merchant fees and the main barriers to entry/expansion within the European Union.

A second meeting took place on 26 June 2019, focusing on the issue of syndicated loans.

Telecommunications Sector

The meeting of this working group took place on 19 September 2019 in Brussels. The topics discussed covered the reform of the texts applicable to the sector in terms of ex ante regulation, in particular the adoption of the new Electronic Communications Code that Member States must transpose by 20 December 2020, the new guidelines on Significant Market Power and the reform of the Commission's recommendation on relevant markets susceptible to regulation. In addition, several NCAs as well as BEREC ("Body of European Regulators for Electronic Communications") addressed the issue of network sharing. Some NCAs also referred to some of their ex-post interventions in this area.

Online Reservations Sector

On 18 October, a meeting was held in Brussels on recent developments concerning online hotel platforms. NCAs exchanged experiences and discussed possible measures to be taken regarding the expiry of the commitments made by Booking.com and Expedia in June 2020.

Advisory Committee

Created by Article 14 of Regulation 1/2003, the Committee brings together the Commission services (representatives of the Legal Service and DG COMP) and representatives of national competition authorities to give their views on draft Commission decisions.

Indeed, when adopting a decision ordering the cessation of an infringement or accepting commitments, the Commission must consult this Advisory Committee. The Committee may also be called upon to give its opinion on any draft text relating to the Union's competition rules, such as Commission notices or guidelines. However, its opinion is not binding.

2. The Competition Day



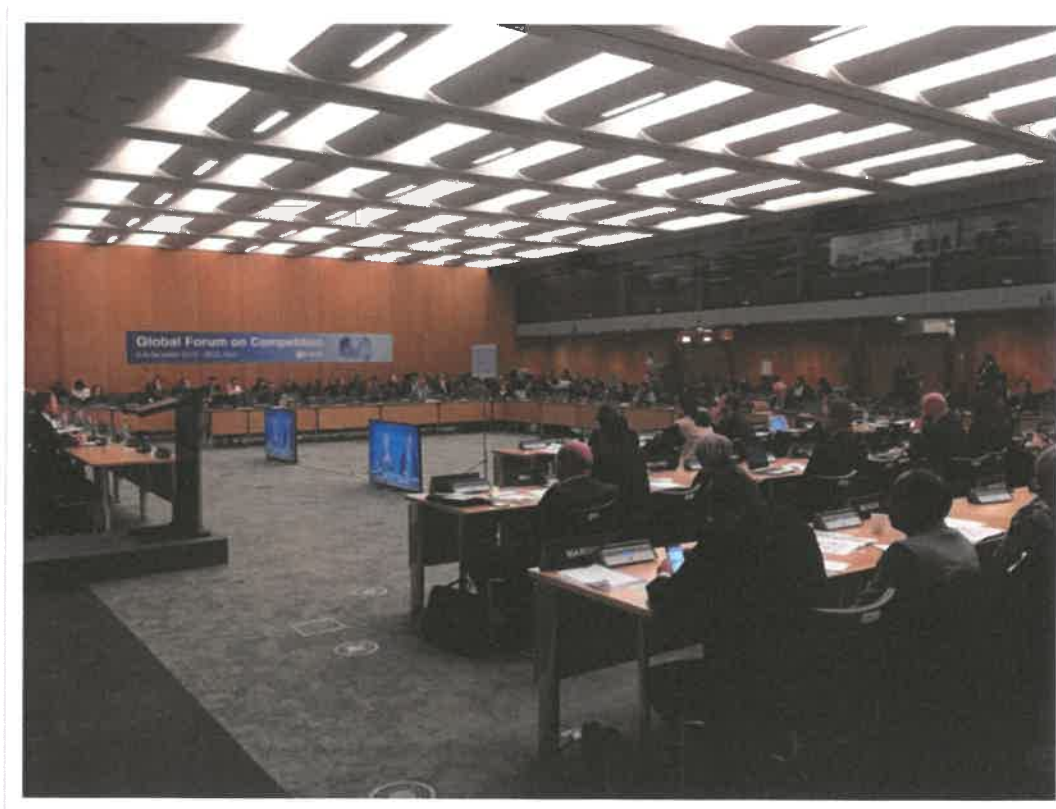
The Presidency of the Council of the European Union traditionally organizes the European Competition Days in conjunction with the European Consumer Day. The Council took part in this event on 25 and 26 September 2019 in Helsinki. The topics of the conference were the impact of sustainability agreements on European competition law and how to empower consumers in the digital age.

3. Organisation for Economic Co-operation and Development (OECD)

The OECD deals with competition issues in meetings of the Competition Committee and the Global Forum on Competition.

The Competition Committee promotes exchanges of views and analysis on competition policy issues.

The OECD Global Forum on Competition annually brings together competition officials from more than 100 competition authorities and organizations from around the world to discuss key issues and recent trends in competition law. In 2019, the Forum was held in Paris on 5 and 6 December and focused on the challenges of the digital age, the relationship between competition policy, global trade and the functioning of merger control in dynamic markets.



The Council also participated in the OECD Competition Open Day, held on 27 February 2019. Speakers addressed four central topics: online vertical restraints, non-tariff competition in digital markets, excessive pricing in the pharmaceutical sector and gun jumping in merger control.

Finally, the Council took part in a conference organized by the OECD on 3 June 2019 on competition in the digital economy. Big Data, digital innovation and regulatory challenges in competition policy were the main themes.

4. Annual Meeting of European Competition Authorities (ECA)

This meeting, which brings together the leading members of the NCAs of the European Union each year, was held on 6 and 7 March in The Hague. It was devoted to a discussion on the priorities to be adopted by competition authorities, the problem of tacit coordination between companies, the impact of reduced competition on general welfare and cartels between buyers.

5. Implementation of Directive 2019/1

In the context of the transposition of this Directive, which must take place by 4 February 2021 at the latest, the Council took part in the *Kick-Off Meeting* of 5 February 2019 at the Albert Borschette Conference Centre in Brussels. The Directorate General for Competition of the European Commission first presented the most relevant aspects of the transposition process, and then presented the articles of the Directive and answered questions from the Member States.

6. Benelux Joint Memorandum on Competition Issues in a Digital Era



Faced with the challenges posed by the technological and digital revolution, the national competition authorities of the Benelux countries² wished to contribute to this debate by publishing a memorandum.

In the digital age, this paper proposes to analyze certain aspects of competition law, such as merger control mechanisms, the guidance of companies in digital markets as well as binding commitments without establishing an infringement, through the implementation, where appropriate, of *ex-ante* instruments.

In this context, the Benelux Union had organized a round-table discussion at which the presidents of the Benelux authorities presented their joint memorandum. Around fifty stakeholders from the world of large digital companies and consumer protection organizations took part in this debate.

C. At an international level

At the international level, the Council actively follows the work of the International Competition Network (ICN).

² The Belgian competition authority (<https://www.belgiancompetition.be/en>), the Dutch competition authority (<https://www.acm.nl/en>) and the Luxembourg Competition Council (<https://concurrency.public.lu/fr.html>).

The ICN brings together various national competition authorities at the global level and serves as a forum for discussion on matters relating to the application of competition law.

Non-governmental officials appointed by the Council participate in meetings and discussions within this network. Marc Barennes, Vivien Terrien and Thierry Reisch have been appointed in this capacity for two years.

During the year, the Council joined the ICN CAP (Framework for Competition Agency Procedures), a genuine cooperation tool designed to promote procedural fairness by ensuring effective cooperation between national competition authorities. This common framework sets out a list of procedural principles, which the adhering competition authorities commit themselves to respect.

In addition, the Council has increased the number of cooperation activities in 2019. For example, there were numerous exchanges between the Council and its German and Austrian counterparts in the context of their respective investigations into Amazon's conduct in its Marketplace.

IV. Awareness-raising and communication actions (advocacy)

A. Website

The Council's website www.concurrence.lu, a contact point between the administration and its users, provides information on the Council's activities and the most important aspects of competition law in Luxembourg:



As part of the implementation of the new ICN procedures, aimed at greater transparency in terms of communication, in 2019 the Council began considering a redesign of its website.

B. Newsletter

With a view to providing information on national, European and international news on issues, cases or developments relating to competition law, the Council published in 2019 its Newsletter entitled "*Competition issues in Luxembourg and abroad*".

It is available on the Council's website at: <https://concurrence.public.lu/fr/support/newsletter.html>.

C. Social Networks

Since 2019, the Council has been present on Twitter (https://twitter.com/concurrence_lux) and LinkedIn (<https://www.linkedin.com/company/concurrencelux/>). At the end of 2019, the Council had approximately 200 and 100 "followers" on the respective accounts.

V. Learning activities

A. Seminars provided by the Council

Seminar at the Institut d'Etudes Politiques in Strasbourg (IEP)

In the framework of its cooperation with the IEP in Strasbourg, the Council provided students of the Master II in European Economic and Regulatory Law with a "Moot Court" type seminar, giving students the opportunity to study a case from its investigation to its decision-making phase.

Seminar at the Université de Lorraine de Nancy

For several years now, the Council has been introducing students of the Master II European Business Lawyer to European competition law.

These collaborations are also an opportunity for students to join the Council for their end-of-study internship.

B. Learning courses attended by the Council's employees

Official visit to the Directorate-General for Competition of the European Commission



As part of an exchange program between the European Commission and the European competition authorities, the Competition Council was for the first time able to integrate the "cartels" unit of the Directorate-General for Competition for a period of six weeks.

Conferences and trainings organized by the Chamber of Commerce

During 2019, the Competition Council participated in several conferences/trainings organized by the Chamber of Commerce, such as the *Go Digital* programme and the *Internet Days* on 12 and 13 November.

On 24 September 2029, the Council took part in a conference on innovation and business opportunities in public procurement.

Summer Course on European Antitrust Law

Every year, members of the staff are able to participate in learning courses on competition law organized by the ERA (Europäische Rechtsakademie).

Webinar “*The ECN+ Directive: Practical Implications for NCAs and Business*”

The Council also attended ERA's webinar "*The ECN+ Directive: Practical Implications for NCAs and Businesses*" on December 4, 2019. This Webinar focused on:

- the analysis of the provisions and purpose of the ECN+ Directive,
- and its impact on the enforcement powers of competition authorities on the one hand and on the daily life of undertakings on the other.

More Pros and Cons Vertical Restraints

Vertical restraints in trade relations, particularly in e-commerce, were at the centre of the debate at this conference, which took place in Stockholm on 8 November 2019. The Booking.com case, as well as the theories of recommended retail prices and free riding were discussed among practitioners and academics.

Other Conferences on Competition Law



On 10 and 11 December 2019, the Council participated at the conferences "*Chillin Competition*" and "*Antitrust in Times of Upheaval - A Global Debate*" in Brussels. These events join the list of

international meeting places to discuss and exchange on current topics and trends in the field of competition law.