

The European Commission Launches an Antitrust Sector Inquiry into the Sector of Internet of Things for Consumer-Related Devices and Services

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Antitrust/Competition

On July 16, 2020, the European Commission (“**Commission**”) announced that it has launched an antitrust sector inquiry into *“consumer-related products and services that are connected to a network and can be controlled at a distance, for example via a voice assistant or mobile device.”*

Commission Executive Vice President and Competition Commissioner Vestager said that *“[t]he sector inquiry will cover products such as wearable devices (e.g. smart watches or fitness trackers) and connected consumer devices used in the smart home context, such as fridges, washing machines, smart TVs, smart speakers and lighting systems. The sector inquiry will also collect information about the services available via smart devices, such as music and video streaming services and about the voice assistants used to access them.”* Connected cars are outside of the scope of the inquiry.

Commissioner Vestager noted that the Internet is increasingly embedded in consumer devices (around 180 million devices in 2023 with an estimated value of around Euro 22 billion), and that: *“[t]he consumer Internet of Things is expected to grow significantly in the coming years and become commonplace in the daily lives of European consumers [...] There are indications that certain company practices may structurally distort competition. In particular, there are indications relating to restrictions of data access and interoperability, as well as certain forms of self-preferencing and practices linked to the use of proprietary standards. Internet of Things ecosystems are often characterised by strong network effects and economies of scale, which might lead to the fast emergence of dominant digital ecosystems and gatekeepers and might present tipping risks. Therefore, through this competition sector inquiry, the Commission will gather market information to better understand the nature, prevalence and effects of these potential competition issues, and to assess them in light of EU antitrust rules.”*

Commissioner Vestager also indicated that the key focus areas of the sector inquiry are expected to be:

- **Data:** *“...access to large amounts of user data appears to be the key for success in this sector, so we have to make sure that market players are not using their control over such data to distort competition, or otherwise close off these markets for competitors.”*

This sector inquiry will help us better understand the nature and likely effects of the possible competition problems in this sector”;

- **Risk of gatekeepers and "tipping" markets:** the Commission wants to establish if/to what extent IoT markets face such risks. Commissioner Vestager mentioned that the risk markets reaching a "tipping point" must be avoided.
- **Interoperability:** the Commission wants to ensure that smart devices are truly interoperable and able to communicate with each other. Commissioner Vestager emphasised that "[i]nteroperability is of the essence if we want to make this market accessible."
- **Devices including voice assistants:** Devices, including voice assistants are interfaces between consumers and products and can have an impact on consumers' purchasing behaviour. The Commission is concerned about possible self-preferencing/foreclosure.

The Commission will send requests for information (RFIs) to around 400 players from around the world, covering all levels of the supply chain (e.g. patent holders, software developers, smart device manufactures, and related service providers).

The RFIs should be circulated in the next days according to Commissioner Vestager (or weeks according to the Commission's press release). Commissioner Vestager also indicated that the Commission is currently aiming at issuing a preliminary report in spring 2021.

The sector inquiry runs parallel to the other steps taken by the Commission in the context of its digital strategy, such as the consultation on the New Competition Instrument, the Digital Services Act (see [here](#)), and other regulatory initiatives related to artificial intelligence, data and digital platforms (see [here](#)).

Finally, Commissioner Vestager also indicated that this sector inquiry “*sends an important message to powerful operators in these markets that we are watching them and that they need to do business in line with competition rules*”.

What Are Sector Inquiries?

The Commission describes [sector inquiries](#) - as: "*investigations that the European Commission carries out into sectors of the economy and into types of agreements across various sectors, when it believes that a market is not working as well as it should, and also believes that breaches of the competition rules might be a contributory factor.*"

They typically take several years from initial inquiry to final report, so the Commission's goal of issuing a preliminary report by the Spring of 2021 indicates that it will seek to expedite the inquiry; follow up investigations into specific companies, however, can start at any time and some will usually start before the sector inquiry as a whole is finalised.

What Can Companies Expect?

Imminently, around 400 companies at all levels of the value chain can expect to receive requests for information and documents, asking for some combination of opinion-type input to help identify issues, information on contracts and disputes, and other internal documents.

Although the Commission will already have an initial idea of the issues it wants to investigate, the replies to these requests for information and other contacts between the Commission and companies will help to shape the sector inquiry and the future cases that the Commission intends to take.

For example, with the e-commerce sector inquiry, Commission officials have said that they were surprised by the number of contracts they found that contained clauses that the Commission felt were well-established as unlawful, such as market partitioning clauses.

How Covington Can Help

With antitrust attorneys in Brussels, the U.S., and China, Covington provides global expertise in handling major inquiries, as well as in-depth experience of relevant technology issues, including through our [Internet of Things Task Force](#).

Our roster of ex regulators can provide detailed insight into how such inquiries work, and how companies can identify and pursue their business objectives in relation to the inquiries.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our Antitrust/Competition practice:

Johan Ysewyn

+32 2 549 52 54

jysewyn@cov.com

Kevin Coates

+32 2 549 52 32

kcoates@cov.com

Andrea Zulli

+32 2 549 52 80

azulli@cov.com

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