



Funded by
the European Union



QUB LAW
International and European Law
Thematic Group seminar

Exploring the evolution of EU competition law
enforcement in the pharmaceutical sector

Dr Mina Hosseini

Marie Skłodowska-Curie Postdoctoral Fellow,
UCD Sutherland School of Law

Wednesday, 6 December at
14:30 in PFC/02/025



QUEEN'S
UNIVERSITY
BELFAST

SCHOOL
OF LAW

This research is part of the COMPHACRISIS project, which has received funding from the European Union's Horizon Europe MSCA programme under grant agreement No. 101061575. Views and opinions expressed are, however, those of the author only and do not necessarily reflect those of the European Union or the European Research Executive Agency. Neither the European Union nor the granting authority can be held responsible for them.



Funded by
the European Union

Exploring the evolution of EU Competition Law Enforcement in the Pharmaceutical Sector - Guest Lecture

Speaker: Dr Mina Hosseini, Marie Skłodowska–Curie postdoctoral fellow, UCD Sutherland School of Law

Time: 6 December 2023.

Venue: School of Law, Queen's University Belfast

Host: Professor Marek Martyniszyn, School of Law, Queen's University Belfast

The goal of the session

This guest lecture aims to provide insight into the EU competition law enforcement in the pharmaceutical sector, focusing on the impact and implications of the COVID-19 pandemic.

Learning objectives

By the end of this guest lecture, learners will be able to:

- Describe and analyse the main features and trends of EU competition law enforcement in the pharmaceutical sector before, during, and after the COVID-19 pandemic.
- Identify and evaluate the main types of anti-competitive practices in this sector and how they affect competition, innovation, and public health outcomes.
- Discuss and propose the future of competition law in this sector after the pandemic, considering the lessons learned from the crisis and the emerging trends and opportunities.

Lecture content

The guest lecture content is divided into three parts: pre-COVID period, crisis period, post-crisis period, and conclusion. Each piece covers the following topics:



Pre-COVID period

- Analysing the main features and trends of EU competition law enforcement in the pharmaceutical sector before 2008 and between 2008 and 2019, using landmark cases as examples, such as AstraZeneca, Lundbeck, Servier, etc.
- The main types of anti-competitive practices in this sector include pay-for-delay agreements and abuse of dominance (excessive pricing, product hopping, disparagement practices, and anti-competitive aspects of off-label use of drugs).

Crisis period

- Describe and assess the impact of the COVID-19 pandemic on the pharmaceutical sector and its implications for competition law and policy.
- Examining the crisis enforcement of EU competition law in the pharmaceutical sector during the pandemic, focusing on the measures taken by the European Commission and national competition authorities to address the urgent needs and challenges posed by the crisis, such as issuing guidance on cooperation and comfort letters. Launching investigations into potential abuses, etc.
- Explore the role and scope of cooperation and coordination between competitors, regulators, and other stakeholders in this sector during the pandemic, such as data-sharing, joint research and development, production and distribution agreements, etc.
- Identify and analyse the potential risks and benefits of such cooperation and coordination for competition, innovation, and public health outcomes.

Post-crisis period

- Discuss the future of competition law in the pharmaceutical sector after the pandemic, considering the lessons learned from the crisis and the emerging trends and opportunities in this sector.
- Review the main initiatives and proposals that will affect EU competition law enforcement in this sector in the post-pandemic era, such as the Pharmaceutical Strategy for Europe, the reform of the pharmaceutical legislation, the regulation on compulsory licensing for crisis management, etc.
- Explain how these initiatives and proposals aim to enhance competition, access to medicines, innovation, and preparedness for future crises in this sector.
- Propose a novel idea for a similar ex-ante regulation for the pharmaceutical sector based on the DMA (Digital Markets Act) experience: The PMA (Pharmaceutical Market Act) would impose obligations on pharmaceutical gatekeepers during a pandemic and prohibit anti-competitive practices.



Conclusion

- Summarising the main points and findings of the lecture: how EU competition law enforcement in the pharmaceutical sector has evolved over time and across different periods (pre-COVID, crisis, post-crisis).
- Emphasising the main challenges and opportunities for competition law in this sector, especially in times of crisis such as the COVID-19 pandemic.
- Reiterating the lecture's main objectives and contributions: how effectively enforcing competition law can balance the affordability of medicines with innovation in this sector.
- Providing recommendations and suggestions for future research and policy actions in this field.