

Please note: This is a reply of the Commission's services based on the information provided and, at this stage, it does not amount to a formal position of the Commission.

Dear Dr Tennant, dear Professor Brembs,

Thank you for your letter of 28 October 2018 in which you bring to our attention an alleged infringement of the European Union competition rules.

I understand that you are concerned that there is lack of competition in the market for scientific publishing in Europe, in particular in light of the increasing concentration in the sector, the lack of market transparency, the asymmetry in negotiating power of publishers and research institutions and the slow proliferation of open access publishing.

EU competition rules apply to various activities of undertakings: Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibits anti-competitive agreements between two or more undertakings, and Article 102 TFEU prohibits an undertaking with a dominant market position from abusing that position, where, in both cases, trade between Member States may be affected. The Commission monitors, inter alia, the general functioning of the publishing markets and compliance with these rules in all Member States.

Against the background of the information you provided, it appears that various regulatory and other initiatives may be better placed than competition law to tackle the issues you have identified in the sector of scientific publishing. Notably, a number of initiatives have been adopted in recent years by regulators, as well as directly by funding institutions, aimed to further promoting open access for scientific publishing and to increasing research institutions' negotiating power vis-à-vis publishers. In particular, the Commission, notably through its Horizon 2020 programme, the creation of the European Open Science Cloud, its support to "Plan S", actively works towards ensuring free access to scientific publications from publicly funded research for all European citizens. At the same time, funding institutions organise themselves in consortia in order to increase their negotiating power when contracting with publishers, and new publishers and business practices appear to emerge.

I take good note of the issues you raised. While market information, such as that which you have given us, is often not in itself sufficient to give rise to an investigation under EU competition law, it may contribute to our future work and be relied upon, should further developments or additional information lead the Commission to initiate a full-scale investigation into the sector in the future.

I therefore greatly appreciate that you have chosen to inform us of this issue, have kept the information you provided us with and intend to continue monitoring the functioning of the market for academic publishing in Europe.

With kind regards,

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Head of Unit

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