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How are the Approaches to Regulate Digital Platforms in European Union and Japan Evolving?

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I. Introduction

The European Union (E.U.) and Japan are amongst the world's largest and most mature economies. Their competition law regimes are amongst the world's very best. The global antitrust community watches them keenly. Both jurisdictions have been at the forefront of digital regulation, including from an antitrust standpoint.

This article will set out the steps the two jurisdictions have taken toward platform regulation, focusing primarily on the antitrust aspects.

II. Consensus Regarding Platform Regulation from an Antitrust Standpoint

Consensus amongst global academia, regulators, and policymakers is in favor of decisive action with respect to digital behemoths, including Big Tech companies. The least regulators should do, the argument goes, is impose obligations that discipline the market conduct of what are very large and powerful corporations. After all, they wield extraordinary influence over people's lives and have enormous market power. In a report titled 'Anticompetitive Practices by Big Tech companies,' the multi-partisan Standing Committee on Finance of India's lower house of Parliament, the *Lok Sabha*, states that digital markets are characterized by "massively powerful increasing return to size economies." Those market dynamics result not just from traditional scale and scope effects but also from "dramatically powerful" learning and network effects. Novel antitrust harms emanating from the digital economy include algorithmic self-preferencing, killer acquisitions, data-related harms, privacy-related harms, etc. What's more, the notion that the economics of digital markets is markedly different from traditional markets has become a sort of truism amongst a wide cross-section of economists—belonging to almost all hues.

III. European Union's Legislative Initiatives

The European Union (E.U.) has devised an elaborate platform regulation regime for its digital markets: the Digital Services Package. That package includes the Digital Markets Act (DMA) and the Digital Services Act (DSA). A sui-generis regulatory regime, the DMA imposes ex-ante obligations and requirements on digital behemoths ("gatekeepers") to bolster fairness, contestability, and competition. Many of those obligations take the form of 'dos and don'ts. The DMA's enforcement is not circumscribed by economic assessment methods like delineating relevant markets and establishing dominance. Enforcement relies on simple rules rather than complex methods. And so, the EC has far less discretion than under traditional antitrust enforcement. The first gatekeeper designations under the DMA were made on 6th September 2023, covering 22 core platform services (CPS) provided by 6 digital behemoths, i.e., Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft.

On the other hand, the DSA seeks to create a safe digital space by offering more control to internet users over their digital lives. It also aims to foster innovation, growth, and competitiveness. One notable provision grants users better information about why they are recommended certain information and permits them to make alterations that avoid profiling. The DSA also places an outright ban on targeted advertising for minors as well as the usage of sensitive data such as ethnicity, religion, and sexual orientation. Ultimately, the two

legislations ensure the fundamental rights of all users, as well as a level-playing field for businesses by promoting accountability and transparency. Apart from the DSA, the E.U. has legislated the Data Act of 2022 which aims to maximize the value of data (both personal and non-personal). While the E.U.'s regulatory agenda may have its share of reasonable, justifiable, and important criticisms, it has set the gold standard for all other jurisdictions. The DSA must be seen in light of the E.U.'s strategy for *Shaping Europe's Digital Future*.

IV. Japan's Legislative Initiatives

Japan has sought to increase transparency and fairness in its digital markets through the Act on Improving Transparency and Fairness of Digital Platforms (TFDPA). Based on the self-regulation model, that legislation seeks to promote free and fair competition by protecting the interests of platform users and (at the same time) respecting the autonomy and independence of platform service providers. A non-exhaustive list of firms to which the TDFPA's provisions have been applied is as follows: Amazon Japan, Rakuten Ichiba, Yahoo! Shopping, Google Play Store, Apple App Store, Google Search, YouTube, Meta (Facebook, Messenger, and Instagram) and Yahoo! Japan.

More recently, however, the Japanese government has been contemplating an ex-ante regulation regime for its digital markets. An inter-ministry organization called the Digital Market Competition Headquarters (DMCH) is considering DMA-style legislation for mobile ecosystems, voice assistants, and wearable devices. The Digital Market Competition Committee, an organization relevant to DMCH, released the final report on June 2023 which presented their assessment of the state of competition in mobile ecosystems. The goal of making Japanese digital markets fairer and more contestable can be seen in the context of Prime Minister Fumio Kishida's government's 'New Capitalism' agenda—which seeks to revitalize capitalism for the twenty-first century.

Over the last few years, the Japan Fair Trade Commission (JFTC) has taken several initiatives to encourage competition. In 2020, it amended the Merger Review Guidelines. That same year the JFTC also introduced new quasi-thresholds to regulate address mergers with the potential of adversely affecting competition. The quasi-thresholds captured mergers that did not meet notification thresholds but whose transaction value exceed 40 billion Japanese Yen and at the same time have the potential to affect consumers. Such parties would be encouraged to voluntarily consult with the JFTC. Pertinently, substantive assessment under the revised Merger Review Guidelines pay more importance on data foreclosure and network effects. A year before, the JFTC introduced the Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc to make digital platform operators' data collection more friendly to consumers. In 2017, Guidelines Concerning Distribution Systems and Business Practices were amended to make their applicability to the digital economy smoother and easier. The JFTC periodically updates guidelines to apply the provisions of the Antimonopoly Act (AMA) more transparently in digital market.

V. Differences between the DMA and TFDPA

A. Legislative Intent

The DMA's regulatory intent can be described as interventionist. Its obligations, requirements, and restrictions seek to police and discipline the conduct of digital behemoths. The EC wants to maintain a watchful eye over competitive dynamics in the digital economy. By contrast, the TFDPA adopts the self-regulation model. Digital platforms retain the right to design their own regulatory mechanisms to meet the goals set out in the TFDPA. That doesn't mean the Japanese government has no supervisory powers at all. It does, but compared to the DMA, those powers can be described as light-touch.

B. Designation Process for Regulatory Purposes

Designation as gatekeeper for a CPS requires a firm to possess the following characteristics: a. it must have a significant impact on the E.U.'s internal market (Characteristic 1); b. it must provide a CPS which is an important gateway for 'business users' to reach 'end users,' (Characteristic 2); and c. it must enjoy an entrenched and durable position, in its operations, or it must be foreseeable that will enjoy such a position in the near future (Characteristic 3. If firms meet certain quantitative criteria, they are presumed to possess the characteristics required for designation. A firm is presumed to possess Characteristic 1 if its group's annual turnover is at least 7.5 billion Euros in each of the last three financial years or an average market capitalization of 75 billion Euros in the previous financial year, and it provides the same CPS in at least three member states of the E.U. The presumption of Characteristic 2 is fulfilled if the firm has had at least 45 million monthly active end users established or located within the E.U. in the previous financial year and at least 10,000 yearly active business users established in the E.U. in the previous financial year. The identification and calculation with respect to the number of users must be consistent with the prescribed methodology and indicators. If a firm fulfills the requirements with respect to Characteristic 2 in each of the previous three financial years, then it is presumed to possess Characteristic 3.

Under TFDPA's Article 4(1), the Ministry of Economy, Trade and Industry (METI) can designate platform service providers as 'Digital Platform Providers' with regard to different business categories (as specified by Cabinet Order) based on the scale of business activities of a firm. The metric to measure business activities is the total amount of sales of products, number of users, and certain other indicators. Even as the TFDPA empowers the METI to designate 'Digital Platform Providers,' it also obliges service providers to notify the ministry if they qualify under that category for any business category specified by Cabinet Order. The business categories and scale of business activities prescribed by the Cabinet Order shall be such that they regulate "to the minimum extent necessary." Due regard must be paid to factors like the extensive use of a specific set of digital platforms by the public and the scale, nature, and composition of transactions between business users and digital platforms, as well as the need to protect the interests of end users.

C. Regulatory Ambit

The DMA casts its regulatory net over firms that provide "core platform services" (CPSs): 'online intermediation services,' 'web browsers,' 'operating systems,' 'online social networking services,' 'video-sharing platform services,' 'number-independent interpersonal communications services,' 'virtual assistants,' 'cloud computing services,' 'online search engines,' and 'online advertising services,' including any advertising networks, advertising exchanges, and any other advertising intermediation services provided by CPSs falling under the ambit of Article 2(2).

By contrast, the TFDPA initially applied only to app stores and online marketplaces. Then in 2022, digital advertisement services were brought into its fold. Regulated entities are known as "Specified Digital Platform Providers."

D. Notification Obligations on Firms

If a firm providing any CPS meets all of the quantitative criteria prescribed in Article 3(2), it is obligated to notify the EC within two (2) months after that happens. While notifying their gatekeeper status, firms can rebut that presumption. However, the EC will not consider arguments related to market definition or economic efficiencies. The DMA provides that firms would be successful in rebutting the gatekeeper presumption only in "exceptional circumstances." If the rebuttals are not "sufficiently substantiated," they would stand rejected. But if that threshold is met, the EC may launch an investigation within 45 working days.

The EC can also launch a market investigation to determine whether a firm must be designated as a gatekeeper even if it doesn't meet quantitative thresholds. In such cases, the EC can make use of qualitative criteria for the designation process: the firm's significant impact on the market and its CPS being an important gateway and having an entrenched and durable position. Relevant factors for such designation include the concerned firm's size and turnover, extreme scale or scope economies, data-driven advantages, very strong network effects, lock-in effects, multi-sidedness of services, lack of multi-homing, vertical integration, conglomerate corporate structure, or CPS's user figures. The DMA allows CPSs to rebut the gatekeeper status presumption in exceptional circumstances. Upon receiving that designation regarding a CPS, the firm must adhere to all obligations with respect to that CPS.

Per the TFDPA's Article 4(2), once a digital platform meets the criteria for designation, it must notify the METI regarding the change in its legal status with respect to each category specified in the Cabined Order mentioned in Article 4(1).

E. Nature and Ambit of Obligations:

The DMA's Articles 5,6, and 7 impose obligations and requirements regarding a variety of anti-competitive practices regulators have tried to address via ex-post competition law. Some examples are exclusivity, self-preferencing, anti-steering practices, most-favored-nation (MFN clauses), tying, and numerous anti-competitive practices relating to app stores. But the

DMA also regulates practices and conduct that usually fall outside the scope of traditional antitrust. For that reason, its regulatory character has been described as "antitrust plus." Some examples of such obligations (including obtaining the consent of 'business users' and 'end users'), requirements, and restrictions regarding data collection, usage, processing, portability, and transparency. For example, gatekeepers are prohibited from combining or cross-using personal data from a CPS with personal data from any other service provided by them or other third-party services. Gatekeepers are also required to provide various forms of data to 'business users,' 'end users,' and competitors upon their request. The DMA also introduces regulatory obligations to protect and encourage competition in the digital advertisement services market and expansive interoperability obligations. An example of the latter is the obligation on messaging services gatekeepers to interoperate with their competitors for basic functions like text messaging, voice calls, and video calls. What's more, the DMA prohibits the use of non-aggression obligations: gatekeepers are barred from preventing business users or end users from raising their grievances before competent courts. While Article 5 imposes "specific obligations," Articles 6 and 7 impose more open-ended obligations—capable of further specification. While some obligations and requirements apply only to specific categories of CPS, other rules apply to all categories. At all times, the DMA's interpretation, application, and enforcement must be based on the legal principle of proportionality. E.U. law obligates the EC to deploy the least onerous measures for the purpose of regulation. While the DMA doesn't allow efficiency justifications, several rules like Articles 6(3), 6(5), 6(7), 6(11), and 6(12) impliedly allow justifications. In addition, the DMA allows extremely narrow grounds for the suspension and exemption of regulatory obligations. It also allows the EC to impose commitments on gatekeepers to ensure their compliance with its obligations and requirements under Articles 5,6, and 7. The EC can issue guidelines with respect to the DMA's enforcement and compliance in accordance with the prescribed manner.

In Japan, the TFDPA requires "Specified Digital Platform" to disclose the terms and conditions associated with their services, including those relating to data usage and sharing, search ranking, etc. Second, they must volunteer to create fairness and transparency-enhancing processes. To that end, the TFDPA imposes disclosure requirements on Specified Digital Platform Service Providers to the benefit of business users and end users. Third, they must submit an annual report to METI presenting *inter alia* an overview of their business, handling of complaints, dispute resolution, and "status" of statutorily mandated disclosures. After a review of such annual reports, the METI publishes its assessment of the fairness and transparency of each firm. The METI expects firms to make voluntary improvements and changes based on its assessment. In discharging its regulatory obligations, the METI must be guided by the objective of enabling platform services providers to fully exercise their originality and ingenuity. Law enforcers must take care to ensure that state involvement, including regulation is restricted to the minimum. They should also strive to create mutual understanding between platform service providers and platform users. If the METI concludes that a Specified Digital Platform is violating the Antimonopoly Act, it can ask the JFTC to initiate legal action. The METI can also recommend measures to ensure compliance with the provision of the TFDPA. The METI retains the right to invite other stakeholders to provide their inputs for assessments under the TFDPA. The TFDPA doesn't place any obligation regarding efficiency justifications. The METI is required to frame guidelines to ensure the enforcement of and compliance with the TFDPA based on prescribed factors.

F. Compliance

Under the DMA, firms have six months to comply with the prescribed behavioral obligations. Within that period, gatekeepers have the option to request the EC to assess whether their measures comply with the law. In case of non-compliance, the EC must strive to publish a decision within 12 months from the date when relevant proceedings are initiated. The DMA empowers the EC to launch an investigation against a gatekeeper for systematic non-compliance.

Under TFDPA, oOnce a platform service provider is designated as a Digital Platform Provider, the TFDPA's provisions apply instantly. If the METI detects non-compliance on the part of a Digital Platform Service Provider, it can make an appropriate recommendation to immediately ensure compliance. Such a recommendation must be accompanied by public announcement. If the Digital Platform Service Provider fails to comply with the recommendation as well, the METI reserves the right to direct compliance. That directive must also be accompanied by a public announcement.

G. Penalty

Where a gatekeeper doesn't comply with the DMA's obligations, the EC's is empowered to impose fines of up to 10% of the company's total global turnover, which can go up to 20% in case of repeated infringement. In case of systematic infringements, the EC can adopt more stringent and interventionist remedies like mandating the sale of parts of a business. Periodic penalty payments may amount to up to 5% of daily average turnover. The DMA doesn't provide for personal or criminal liability.

On the other hand, under the TFDPA, a Specified Digital Platform Provider can be fined up to 1 million Japanese Yen if it breaches the METI order.

H. Right of Appeal

Gatekeepers are entitled to appeal the EC's decisions under DMA before E.U. courts who can conduct a full review of the reasoning undergirding those decisions. However, filing an appeal will not automatically suspend the effect of the decisions unless the courts grant interim measures. Parties—'business users and 'end users'—can seek such interim measures. The legal test is that a prima facie case must arise from the appeal and the urgency be such that implementing the appealed decision would cause serious and irreparable harm to affected parties. The European Court of Justice is vested with jurisdiction over all decisions under the DMA.

If the METI refers a case to the JFTC under the TFDPA, parties can file appeals under the provisions of the Antimonopoly Act and the legislation relating to general administrative litigation.

I. Private Enforcement

The DMA allows parties to initiate private actions against designated gatekeepers before national courts.

The TFDPA allows end users to report non-compliance to the METI. The legislation restrains regulated entities from disadvantageously treating parties that choose to report non-compliance. If the METI detects actual non-compliance, it can make a recommendation to the Digital Platform Provider to comply with its obligations.

J. Role of Third Parties

Third parties may inform the EC or national competition authorities about conduct in violation of the DMA. During the enforcement process, third parties can provide comments ahead of the EC's adoption of specific measures to bring gatekeepers into compliance with Articles 6 or 7. The EC retains the right to consult third parties before issuing a non-compliance or commitment decision or an implementing act. Finally, the EC can consult third parties during a market investigation to decide whether to expand the list of CPSs or gatekeeper obligations.

Under TFDPA, the METI can consult third parties while assessing the annual reports submitted by regulated entities.

K. Merger Regulation Specific to the Digital Economy

Article 14 of the DMA requires the gatekeepers to notify the EC of all intended mergers and acquisitions "where the merging entities or the target of concentration provide core platform services or any other services in the digital sector or enable the collection of data." Such transactions need not meet the threshold of the EU Merger Regulation.

The TFDPA doesn't have any specific rules regarding mergers and acquisitions at all.

Snapshot of Differences Between DMA and TFDPA

S.No.	Regulatory Theme	DMA	TFDPA
1.	Legislative Intent/Model	Interventionism	Self-Regulation
2.	Regulatory Designation	The DMA applies to 'gatekeepers.' Designation as gatekeeper for a CPS requires a firm to possess the following characteristics: a. it must have a significant impact on the E.U.'s internal market (Characteristic 1); b. it must provide a CPS which is an important gateway for 'business users' to reach 'end users,' (Characteristic 2); and c. it must enjoy an entrenched and durable position, in its operations, or it must be foreseeable that will enjoy such a position in the near future (Characteristic 3. If firms meet certain quantitative criteria, they are presumed to possess the characteristics required for designation. A firm is presumed to possess Characteristic 1 if its group's annual turnover is at least 7.5 billion Euros in each of the last three financial years or an average market capitalization of 75 billion Euros in the previous financial year, and it provides the same CPS in at least three member states of the E.U. The presumption of Characteristic 2 is fulfilled if the firm has had at least 45 million monthly active	TFDPA applies to 'Digital Platform Providers.' with regard to different business categories (as specified by Cabinet Order) based on the scale of business activities of a firm. The metric to measure business activities is the total amount of sales of products, number of users, and certain other indicators. The business categories and scale of business activities prescribed by the Cabinet Order shall be such that they regulate "to the minimum extent necessary." Due regard must be paid to factors like the extensive use of a specific set of digital platforms by the public and the scale, nature, and composition of transactions between business users and digital platforms, as well as the need to protect the interests of end users.

S.No.	Regulatory Theme	DMA	TFDPA
		end users established or located within the E.U. in the previous financial year and at least 10,000 yearly active business users established in the E.U. in the previous financial year. The identification and calculation with respect to the number of users must be consistent with the prescribed methodology and indicators. If a firm fulfills the requirements with respect to Characteristic 2 in each of the previous three financial years, then it is presumed to possess Characteristic 3.	
3.	Regulatory Ambit	'Core Platform Services': 'online intermediation services,' 'web browsers,' 'operating systems,' 'online social networking services,' 'video-sharing platform services,' 'number-independent interpersonal communications services,' 'virtual assistants,' 'cloud computing services,' 'online search engines,' and 'online advertising services,'	Initially applied exclusively to online marketplaces and app-stores. In 2022, providers of digital advertisement services were brought within the regulatory fold.
4.	Notification Obligations on Firms	If a firm providing any CPS meets all of the quantitative criteria prescribed in Article 3(2), it is obligated to notify the EC within two (2) months after that happens. While notifying their gatekeeper status, firms can rebut that presumption.	Per the TFDPA's Article 4(2), once a digital platform meets the criteria for designation, it must notify the METI regarding the change in its legal status with respect to each category specified in the Cabined Order mentioned in Article 4(1).

S.No.	Regulatory Theme	DMA	TFDPA
5.	Nature and Ambit of Obligations	The DMA's Articles 5,6, and 7 impose obligations and requirements regarding a variety of anti-competitive practices regulators have tried to address via ex-post competition law. Some examples are exclusivity, self-preferencing, anti-steering practices, most-favored-nation (MFN clauses), tying, and numerous anti-competitive practices relating to app stores. But the DMA also regulates practices and conduct that usually fall outside the scope of traditional antitrust. For that reason, its regulatory character has been described as "antitrust plus." Some examples of such obligations (including obtaining the consent of 'business users' and 'end users'), requirements, and restrictions regarding data collection, usage, processing, portability, and transparency.	In Japan, the TFDPA requires "Specified Digital Platform" to disclose the terms and conditions associated with their services, including those relating to data usage and sharing, search ranking, etc. Second, they must volunteer to create fairness and transparency-enhancing processes. To that end, the TFDPA imposes disclosure requirements on Specified Digital Platform Service Providers to the benefit of business users and end users. Third, they must submit an annual report to the METI presenting *inter alia* an overview of their business, handling of complaints, dispute resolution, and "status" of statutorily mandated disclosures. After a review of such annual reports, the METI publishes its assessment of the fairness and transparency of each firm. The METI expects firms to make voluntary improvements and changes based on its assessment. In discharging its regulatory obligations, the METI must be guided by the objective of enabling platform services providers to fully exercise their originality and ingenuity.
6.	Compliance	Under the DMA, firms have six months to comply with the prescribed behavioral obligations. Within that period, gatekeepers have the option to request the EC to assess whether their measures comply with the law. In case of non-compliance, the EC must strive to publish a decision within 12 months from the	Once a platform service provider is designated as a Digital Platform Provider, the TFDPA's provisions apply instantly. If the METI detects non-compliance on the part of a Digital Platform Service Provider, it can make a recommendation to immediately ensure compliance. Such a recommendation must be accompanied by a public announcement.

S.No.	Regulatory Theme	DMA	TFDPA
		date when relevant proceedings are initiated. The DMA empowers the EC to launch an investigation against a gatekeeper for systematic non-compliance.	
7.	Penalty	Where a gatekeeper doesn't comply with the DMA's obligations, the E.U.'s competition authority, the European Commission (EC), is empowered to impose fines of up to 10% of the company's total global turnover, which can go up to 20% in case of repeated infringement. In case of systematic infringements, the EC can adopt more stringent and interventionist remedies like mandating the sale of parts of a business. Periodic penalty payments may amount to up to 5% of daily average turnover. The DMA doesn't provide for personal or criminal liability.	Under the TFDPA, a Specified Digital Platform Provider can be fined up to 1 million Japanese Yen if it breaches the METI order.
8.	Private Enforcement	The DMA allows parties to initiate private actions against designated gatekeepers before national courts.	Japan's TFDPA allows end users to report non-compliance to the METI. The legislation restrains regulated entities from disadvantageously treating parties that choose to report non-compliance. If the METI detects actual non-compliance, it can make a recommendation to the Digital Platform Provider to comply with its obligations.
9.	Role of Third Parties	Third parties may inform the EC or national	Under Japan's TFDPA, the METI can consult third parties while

S.No.	Regulatory Theme	DMA	TFDPA
		competition authorities about conduct in violation of the DMA. During the enforcement process, third parties can provide comments ahead of the EC's adoption of specific measures to bring gatekeepers into compliance with Articles 6 or 7. The EC retains the right to consult third parties before issuing a non-compliance or commitment decision or an implementing act. Finally, the EC can consult third parties during a market investigation to decide whether to expand the list of CPSs or gatekeeper obligations.	assessing the annual reports submitted by regulated entities.
10.	Merger Regulation Specific to the Digital Economy	Article 14 of the DMA requires the gatekeepers to notify the EC of all intended mergers and acquisitions "where the merging entities or the target of concentration provide core platform services or any other services in the digital sector or enable the collection of data." Such transactions need not meet the threshold of the EU Merger Regulation.	The TFDPA doesn't have any specific rules regarding mergers and acquisitions at all.

VI. Advocacy Works by Japan's and E.U.'s Regulators

Japan's antitrust regulator, the JFTC, has studied several digital markets in detail from an antitrust regulation and policy perspective. Examples include Report Regarding Cloud Services (2022), 'Data and Competition Policy' (2017), 'Online Retail Platform and App Store (2019), and 'Digital Advertising' (2021). Those reports concerned inquiries into digital platform

operators and analyzed their commercial practices. The JFTC has also put out various guidance publications on different aspects of the digital economy.

The EC has several noteworthy reports about regulation in the digital economy. The 'Final Report on the E-commerce Sector Inquiry' was published in 2017. Two years later, the EC published a report titled 'Competition policy for the digital era.' Recently, in 2022, the EC published the sectoral inquiry report with regard to cloud computing. Notably, the final adoption of the DMA was preceded by several impact assessment reports and 'The Digital Markets Act: A Review from a panel of Economic Experts.'

VII. Differences in the Market Structures of E.U. and Japan

With the exception of perhaps Spotify, the E.U. has no digital behemoths of its own. On the other hand, Japan's digital economy features several such domestic companies.

However strong law and policy rationale behind the DMA, the fact remains that the legislation is hitherto untested. But equally, Japanese policymakers are currently considering whether it is more prudent to move from a self-regulation regime to a more interventionist regime like the DMA.

The E.U. has been accused by its critics of designing the legislation in a way that keeps its own digital behemoth Spotify outside the scope of regulation. It will be interesting to see how Japan will choose to design its ex-ante regime.

VIII. Questions For Further Discussion

1. How must market structure affect regulatory design? If two jurisdictions have different market structures, must they necessarily design ex-ante regulation differently? If yes, in what ways?
2. Should ex-ante legislation for digital markets provide more scope to offer efficiency justifications than the DMA?
3. In what ways does one assess the impact of ex-ante regulatory regime for digital markets on innovation?