



UNIVERSITEIT VAN AMSTERDAM  
*Amsterdam Center for Law & Economics*

The Amsterdam Center for Law & Economics (ACLE) organizes its 6th annual  
Competition & Regulation Meeting on the special topic:

## **Information, Communication and Competition**

April 22, 2010  
University of Amsterdam  
Amsterdam, The Netherlands

Keynote speakers include:

Kai-Uwe Kühn (University of Michigan)  
Philip Collins (OFT)  
Gary Charness (University of California, Santa Barbara, TBC)

This ACLE conference addresses the role of sharing information in the competitiveness of markets. The extent to which market information and commercial business information is available to economic actors affects competition. The availability of information about market circumstances can lead to production efficiencies and enhance transparency. Information disclosure is a crucial remedy to overcome information asymmetry, for example in markets for non-homogeneous, complex products such as financial services or telecommunications. The availability of information and the exchange of such information can, on the other hand, also facilitate coordination and collusion.

Key issues discussed in this conference include the extent to which information sharing between firms facilitates collusion and the extent to which information sharing qualifies as competition law infringements in their own right. Furthermore, how should regulation address remedies to correct information failures on the demand side, while preventing that corporate disclosure leads to collusion and conflict with competition policy? Also, the role of third parties/institutions that facilitate the dissemination of information will be considered. By bringing together theoretical, empirical, and experimental research on this topic, the aim of the conference is to gain a better understanding of the role that information plays in competitive and anti-competitive processes. That insight should be transposed to the legal domain, which determines where communicating or providing information is and is not compatible with the competition laws.

Key-note addresses will cover fundamental and experimental academic research into the role of communication in coordination and cartel formation, as well as practical guidance for undertakings on how information sharing is likely to be considered by competition authorities in practice. The DG Competition of the European Commission is expected to publish its draft guidelines on horizontal agreements for public consultation round about the conference date.

**Call for Papers – NOW OPEN** Academics, private practitioners and officials working with competition and other regulatory authorities, both with a legal and an economic background, are encouraged to submit their research for inclusion in the conference program. We welcome all original research (in progress) related to the topic.

Submissions (full papers or abstracts) may be sent together with the author's contact details to: [ACLE@uva.nl](mailto:ACLE@uva.nl)

The **deadline for submission** is 26 February 2010. Decisions on acceptance to the program will be communicated early March.

## **Introduction to the Topic**

Information plays a crucial role in competitive behavior. Market operators go at length to gather information to base their commercial decisions on. The availability and/or exchange of information can reduce uncertainty between competitors, and enable them to coordinate on noncompetitive strategies. Information sharing is therefore often regarded as a way for firms to facilitate the formation of cartels. In the same vein, the exchange or provision of commercially sensitive information between competitors is normally prohibited under the competition rules. In fact, EC competition law strictly preclude any direct or indirect contact between competitors by which they influence the conduct of each other. The mere disclosure of intentions concerning its own conduct on the market even in general terms ("we intend to raise prices for this product") are likely to be violations of the competition rules.

Sharing commercially sensitive information between competitors is therefore prohibited. At the same time there are various – more expensive – ways in which companies can obtain access to such information. In the first place, there are the market data providers active in various sectors of the economy (e.g., GfK and ACNielsen in the fast-moving consumer goods sector, and Platts in the oil sector). These parties rely on information provided by players in the industry and resell the aggregated information. These activities are normally acceptable under the competition rules. Likewise, competition authorities do not normally object to customers providing their suppliers very exact information on the commercial activities of competing suppliers. In other words, the form in which commercially sensitive information is exchanged or provided seems to determine the conclusions of competition law.

This observation is remarkable for a variety of reasons. First, there is a broad developments towards a more effects-based competition law analysis. Secondly, economic research does so far not allow to derive general conclusions on the pro- or anticompetitive nature of the sharing of information, which appear to be very much case specific.

Against this background the conference aims to explore related economic and legal questions in conjunction. How do different legal regimes deal with the many ways in which information is available to and transmitted or shared by market operators? How precisely can information be used anti-competitively and which types of information can be considered harmful and which types could yield efficiencies instead? Does sharing information with a single competitor in an otherwise very competitive environment necessarily have the object to restrict competition? And where is the boundary between having contact with competitors about aspects which cannot effectively reduce uncertainty about the competitor's intended action and sharing commercially information with the aim to restrict competition? What types of communication should antitrust authorities look for in trying to detect anti-competitive behavior? Understanding the conditions under which anti-competitive effects are to be expected is necessary for a justifiable and effective competition policy. Economic theory, empirical and

experimental research can help to shed light on these issues. Competition authorities are increasingly offering sophisticated guidance for self-assessment.

In the 6<sup>th</sup> ACLE Competition & Regulation meetings we will address these issues. The topic can be approached from many different angles, both economic and legal, and from a variety of research methods, including case studies, experiments, theoretical and empirical studies.

### **More Information**

For more information, please visit the ACLE conference website:

<http://cartelcommunication.acle.nl/>

Relevant information on the preliminary program, registration, fees and accommodation will be posted on this website as we progress towards the conference date.