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When Codes Collude: Algorithms and Competition Law

Date: Thursday 18 June 2026

Venue: White & Case LLP, 5 Old Broad Street, London EC2N 1DW

Speakers: Gytautas Karklius, Compass Lexecon
Nissim Massarano, Clifford Chance
Eve Meurgey, Competition & Markets Authority

Chaired by Jeremy Robinson, Marcus Parker

This panel discussed the competition law implications of algorithmic collusion and AI-driven pricing, bringing together economic, legal, and regulatory perspectives. The discussion focused on whether existing Article 101 TFEU principles are sufficiently flexible to address algorithm-enabled collusion, along with how enforcement and compliance frameworks should respond to the increasing reliance on automated pricing systems.

Opening remarks: Jeremy Robinson, Marcus Parker

- Highlighted increasing concern in competition law around algorithmic pricing and potential collusion in digital markets.
- Noted broad agreement that algorithmic tools are already affecting pricing behaviour and will remain a key issue for competition authorities in the coming years.
- Identified key questions for discussion, including:
 - Whether algorithmic pricing changes the legal analysis under Article 101;
 - How to distinguish independent pricing from unlawful coordination in automated systems;
 - What evidence is required to establish liability where decision-making is automated or opaque;
 - How businesses should approach compliance when using pricing algorithms.
- Observed early consensus that competition law was sufficiently adaptable to evolve but cautioned that companies could not assume reduced responsibility simply because pricing decisions had been delegated to software systems.



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An economic standpoint: Gytautas Karklius, Compass Lexecon

- Identified the three broad categories of algorithmic collusion:
 - The use of AI to enforce a classic cartel (e.g., monitor prices);
 - Hub-and-spoke: shared pricing algorithms used across competitors;
 - Tacit collusion: where independent AI systems converge on a collusive outcome.
- Noted that algorithms may make it easier to satisfy the classic conditions for tacit collusion: reaching a jointly profit-maximising focal price, monitoring for deviations, and punishing them.
- Cited empirical evidence, namely a study of the German fuel markets, as indicating that algorithmic pricing could materially affect market outcomes, including increases in margins from 9% to 28% (depending on the market structure).
- Factors that make algorithmic collusion less likely to emerge in practice:
 - Algorithmic convergence may take time and is not guaranteed;
 - Human oversight and market dynamics can disrupt coordination;
 - Diverse algorithm designs and objectives reduce uniform behaviour.
- AI algorithms increase analytical complexity but not the underlying economics of tacit collusion. Hence, there is no strong reason for wholesale reform of existing tools.

A private practice standpoint: Nissim Massarano, Clifford Chance

- Focused on evidentiary and compliance challenges arising from algorithmic pricing systems.
- Applying a ‘benefit test’ would be the incorrect approach as there was nothing inherently improper about deriving benefit from an AI model. It became problematic only when it entailed collusion.
- While competition law was accustomed to inferring coordination from indirect evidence, the scale and complexity of digital systems created new interpretative challenges. In particular, legal practitioners may lack sufficient technical understanding to assess algorithmic decision-making processes in full.
- Despite this, existing legal frameworks were broadly sufficient, particularly in establishing where a “common understanding” crossed the line into actual collusion.
- Sceptical of mandatory “coding for compliance” particularly given the opacity of black-box models and the costs associated with implementation. Instead, a more pragmatic approach was advocated, including:



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- Due diligence on data inputs and sources;
 - Testing algorithms for potentially collusive outcomes;
 - Human oversight of material pricing decisions;
 - Audit trails documenting algorithmic behaviour.
- Emphasised that compliance should be practical and proportionate, rather than over-technical or burdensome.

A regulatory standpoint: Eve Meurgey, Competition & Markets Authority

- Outlined the CMA's approach to algorithmic collusion as an evolution of existing enforcement priorities rather than a departure from the current legal framework, highlighting that algorithmic collusion has now been a long-standing area of interest for the CMA.
- The CMA has been investing significantly in the technical capability of its case teams, including by engaging data scientists, behavioural economists and business analytics experts, in order to better understand and investigate algorithm-driven markets. The CMA is also using machine-learning to improve detection of potential anti-competitive conduct.
- The CMA's practical ability to look 'inside' an algorithm may be improving. If the CMA's new investigatory powers under the DMCCA are extended to its competition enforcement toolkit (as well as more generally to its other competition and consumer protection powers) as proposed in DBT's recent consultation, this would allow the CMA to conduct specific tests of AI systems and to observe how algorithms operate under specified conditions. See: **Refining our competition regime**.
- Emphasised that the underlying legal principles remained unchanged: companies must independently set pricing and avoid sharing commercially sensitive information (whether directly or indirectly) with their competitors. Companies using pricing algorithms should know how their algorithms work and engage with both the inputs and/or outputs involved, as they may be breaching competition law whether they actively intend to or not.