
Ex-ante versus Ex-post in Competition Law Enforcement Blurred Boundaries: What Economic Rationale?

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Résumé

A traditional debate in the field of law and economics concerns the articulation of ex-ante and ex-post interventions. This debate has been particularly vivid in the field of competition policy, especially with regard to the control of inter-firm agreements and mergers and acquisitions. This contribution, which takes place in a context of dynamic competition, characterised by strong ex-ante uncertainties as to the trajectory of markets and the effects of firms' strategies, revisits this debate and considers it more particularly from the angle of the information available to the authority in charge of enforcing competition rules. The paper draws on competition case law, particularly in the digital sector, and the results of the IO, to shed light on the trade-offs public decision-makers could make when they have access to a set of intervention instruments that combine ex ante and ex post measures.

Mots-Clés: Competition law and economics, digital markets, mergers control, dynamic competition

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