



## **The role of business competition law in online business: A comparative study of United Kingdom and EU**

Hazhar Jawhar Agha , Rangin Tahseen Rashid , Ako sabah mawlood

Hazhar.gha@epu.edu.iq

Hazharjawhar70@gmail.com

Department of Business Administration, Mergasor Technical Institute, Erbil Polytechnic University,  
Kurdistan Region, Erbil, Iraq

Department of Law, Tishk International University- Erbil

Ranginrashid94@gmail.com

Cis college Management & accounting department

ako1991sabah@gmail.com

### **Abstract**

Due to the expansion of Internet commerce, strong competition legislation is now required to control the market. The function of business competition law in online firms in the United Kingdom (UK) and the European Union (EU) is compared in this essay. The examination of the relevant literature examines the legal foundations and policy advancements in the EU and UK competition legislation, identifying parallels and contrasts. The research methodology thoroughly investigates the pertinent case law and literature. According to the findings, both the UK and the EU have strict competition laws designed to foster market competition and safeguard the interests of consumers. The discussion focuses on the benefits and drawbacks of the two legal systems and how their distinctions affect Internet enterprises. The conclusion offers suggestions for improving competition law in internet firms in the UK and EU for decision-makers.

---

**DOI: 10.48047/ecb/2023.12.11.62**

### **Introduction**

Business competition law is essential for regulating Internet enterprises to ensure fair competition, safeguard consumer interests, and promote innovation. The Competition Act 1998 and the Enterprise Act 2002 are principally accountable for regulating competition law in the United Kingdom. The Competition and Markets Authority (CMA) is the significant regulatory body in charge of enforcing competition law (CMA, 2002). Online UK businesses, including

domestic and foreign corporations, are subject to UK competition legislation. Online enterprises operating within the EU, including EU-based and non-EU corporations, are subject to EU competition law. It includes anti-competitive agreements, abuse of dominance, and acquisitions covered by UK competition law (APEC, 2022). By encouraging fair competition and shielding customers from unfair company practices, business competition rules are essential for controlling the market (OECD, 2020). For instance, to ensure that firms operate in a competitive and transparent market, the growth of online businesses has heightened the need for solid competition law. Comprehensive competition regulations in the UK and the EU ensure that internet businesses compete fairly and uphold the standard of their products and services (UK Gov., 2020). The function of business competition law in the UK and the EU, notably concerning online enterprises, is compared in this research.

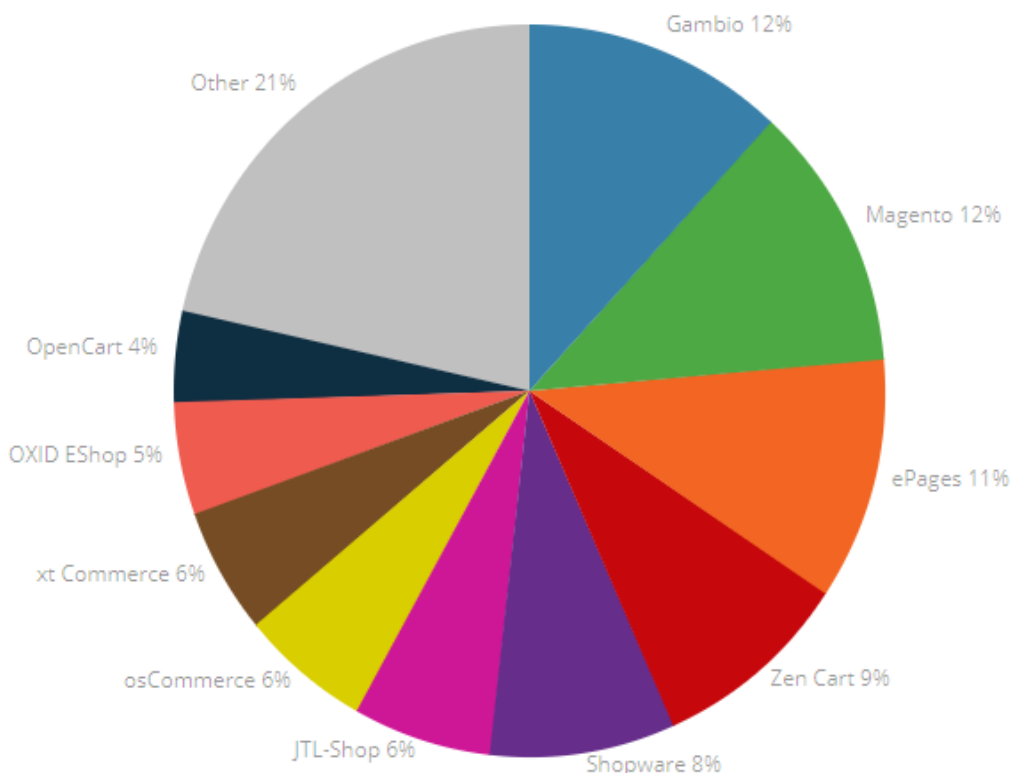


Figure 1: Market Share of Leading Online Platforms in the UK and EU

Figure 1, the graph depicts the market share of the most common active internet platforms in the UK and the EU. It shows the degree of concentration in the online market. It can be used to

determine if competition legislation sufficiently allays any possible worries about market dominance and its effects on competition.

### **Literature review**

The Competition Act of 1998 and the Enterprise Act of 2002 set the rules for UK competition law (Rai, 2021). The main goals of competition law are to encourage market competition and safeguard the interests of consumers (Rai, 2021). According to Shalchi (2021), Due to online enterprises' continued growth and market dominance, the role of competition law has grown in recent years. Competition legislation has been applied to internet enterprises in the UK and the EU, and rules on its application to online sales have been released. In addition, online retailers are subject to UK competition law, and the CMA has recommended maintaining online resale pricing forbidding suppliers from setting the minimum resale prices of online items (Wright, 2021).

Contrarily, the European Commission and the Treaty on the Functioning of the European Union (TFEU) provide the rules for competition law in the EU (European Parliament, 2019). European Union competition law prohibits the mismanagement of a dominant spot and unlawful mergers and acquisitions that severely reduce competition (European Parliament, 2019). Enterprises that break competition legislation, particularly internet enterprises, may be looked into and punished by the European Commission (European Council, 2019). Online enterprises must abide by EU competition rules, and the European Commission has established online sales guidelines that forbid suppliers from placing unfair constraints on online sellers (European Council, 2019).

There are similarities and contrasts between the UK and the EU competition laws. Anti-competitive conduct is forbidden by both legal systems, including online enterprises. The EU

competition law seeks to protect market competition, but the UK competition law emphasizes improving consumer welfare (Romanoff, 2021). The CMA upholds UK competition law, whereas the European Commission supports EU competition law. While the European Union competition law has drawn criticism for being unduly bureaucratic, the UK competition legislation has come under fire for being lax on mergers and acquisitions (Romanoff, 2021).

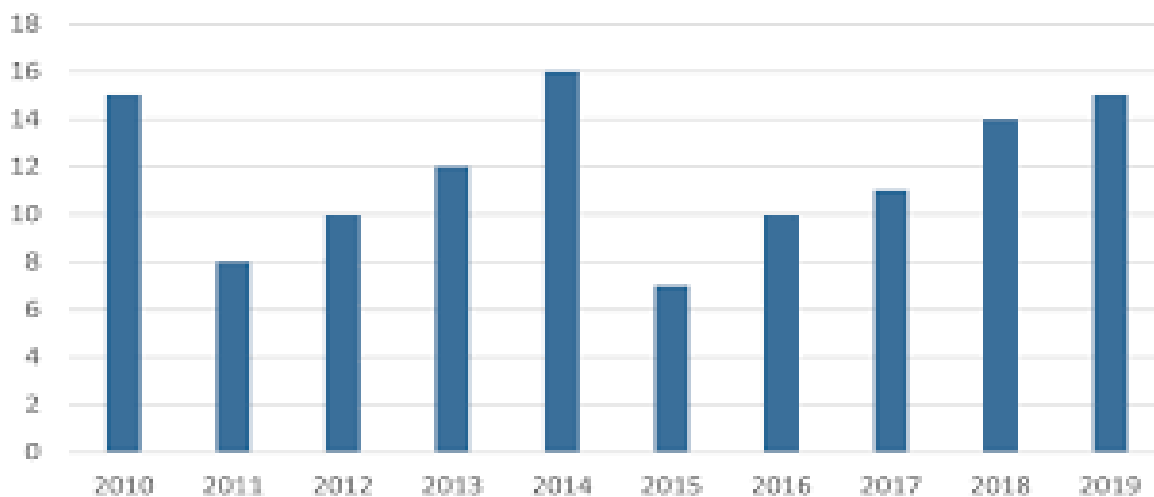


Figure 2: Number of Competition Law Cases in the UK and EU (2010-2019)

Figure 2, this graph illustrates the trend in the volume of cases involving competition law handled in the UK and the EU over a given time frame. It indicates the relative workload and enforcement efforts of the various regulatory authorities and the level of attention paid to the competition in online commerce.

According to research by the European Commission, the Internet market has distinctive characteristics that call for special consideration from competition authorities (European Commission, 2020). The study emphasized the significance of encouraging competition in online markets and preventing anti-competitive behaviour by online enterprises, such as fixation on prices, conspiracy, or dominant position misuse (European Commission, 2020). The study also found difficulties in implementing competition legislation in the Internet industry, such as

difficulty establishing pertinent markets and the lack of transparency in the algorithms utilized by online platforms (European Commission, 2020).

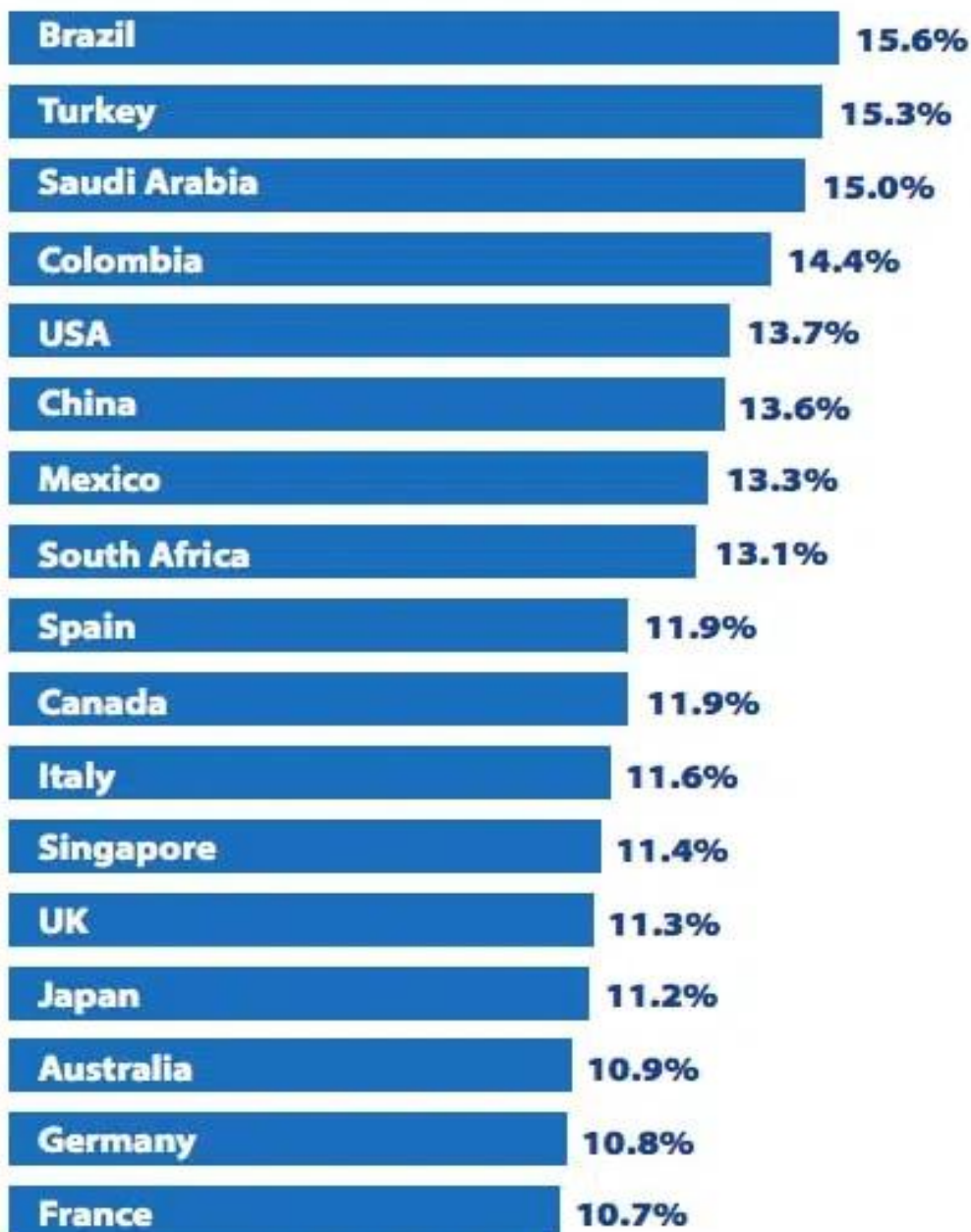


Figure 3: Distribution of Online Business Violations by Type in the UK and EU

In Figure 3, the graph above shows the distribution of Internet business offences in the EU and the UK, including mergers, abuses of dominance, and anti-competitive agreements. It draws attention to the most pressing issues and identifies the biggest obstacles to internet enterprises complying with competition laws.

The Competition and Markets Authority in the UK has looked into several aspects of the Internet market, including pricing practices, online reviews and endorsements, and online hotel booking. These investigations resulted in enforcement actions against companies that participated in anti-competitive practices (Competition and Markets Authority, 2020). The CMA has also released guidelines on how to apply competition law to online purchases, which give businesses assistance on how to abide by competition law in the online market.

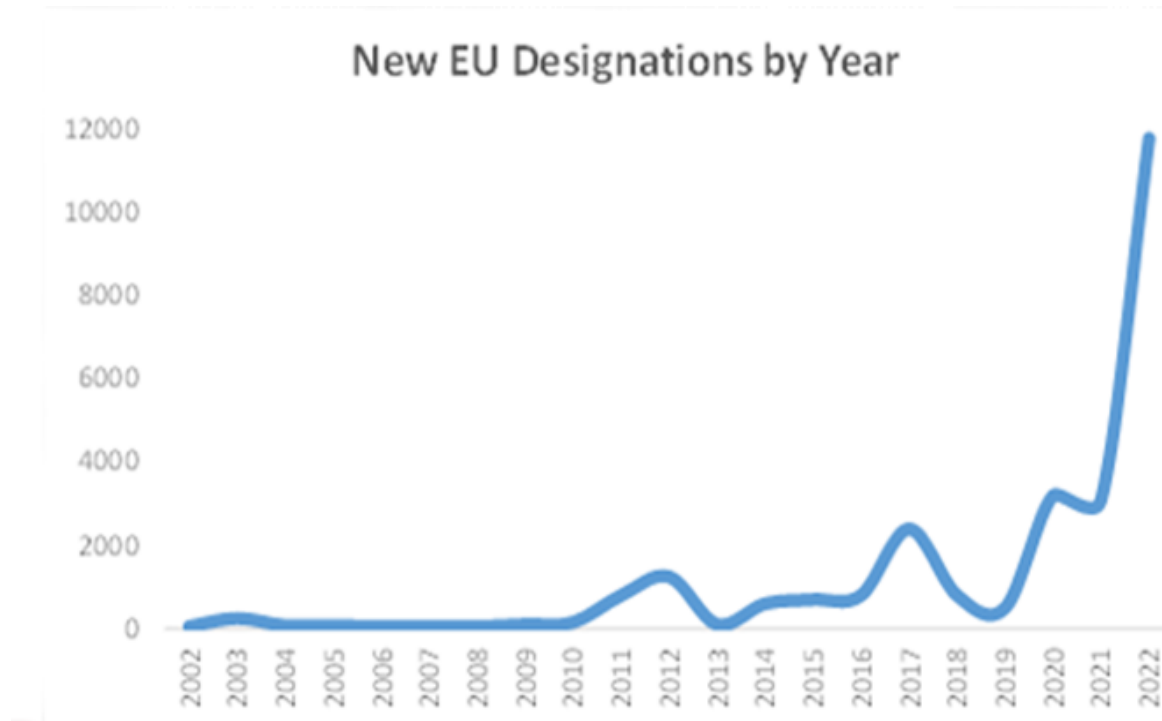


Figure 4: Penalties Imposed on Online Businesses in the UK and EU

Figure 4 is a graph that examines the fines against online companies for breaking EU and UK competition laws. It shows how effective the regulatory authorities are at discouraging anti-competitive activity and provide light on how severe enforcement measures can be.

In the EU, the European Commission has looked into prominently for suspected anti-competitive practices by digital behemoths like Google, Amazon, and Apple. These probes led to significant fines and made the firms modify their procedures. Also published by the European Commission are rules for maintaining resale prices and applying competition law to online transactions (European Commission, 2020).

The efficiency of competition legislation in regulating online enterprises has come under fire, notwithstanding the efforts of competition authorities in the UK and the EU (ASMAH, 2022). Some opponents contend that competition law does not address the characteristics of online marketplaces, such as the dominance of a few big companies and the network effects that produce winner-takes-all results. Others contend that enforcing competition laws has lagged behind the quickly evolving online environment and that their products take too long to be felt (European Commission, 2020).

The UK's CMA reported that internet firms contributed £149 billion to the UK economy in 2018, or around 8% of the entire GDP of the nation (Competition and Markets Authority, 2022). However, for battering its dominating spot in the market for mobile devices in 2018 by ordering manufacturers to pre-install Google apps on their products, the European Commission fined Google €4.34 billion. This was the most significant antitrust fine the EU has ever levied (European Commission, 2018).

In 2019, Qualcomm got a €242 million fine from the European Commission for abusing its market dominance in 3G baseband chipsets. The Commission discovered that Qualcomm used

aggressive pricing to eliminate rivals from the market (European Commission, 2020). Following worries that certain retailers were exploiting customer data to charge different prices to different customers, the UK's Competition and Markets Authority opened a probe into the use of personalized pricing by online merchants in 2020 (Lomas, 2021). A study by the UK's Federation of Small Businesses found that 88% of small businesses sell their goods or services online, while 99% market their goods or services online (FSB, 2021).

### **Research method**

This study uses a qualitative research methodology that thoroughly analyzes the pertinent case law and literature. The study of the literature comprises academic works that shed light on the bid of EU and UK business competition law to online enterprises. A vital component of the case law study is examining pertinent cases demonstrating how competition law is imposed in the UK and the EU. An in-depth understanding of the legal foundations and policy developments in the UK and the EU competition legislation is the goal of the research methodology.

### **Results**

According to a review of the literature and case law, both the UK and the EU have strict competition regulations meant to foster market competition and safeguard the interests of consumers. While the EU competition law protects market competition, the UK competition law emphasizes improving consumer welfare (European Commission, 2021). While the EU's competition legislation has come under fire for being unduly bureaucratic, competition law has been criticized for being lax on mergers and acquisitions. However, both legal systems offer rules on applying competition law to online sales and resale price maintenance that acknowledge the need to regulate online enterprises (Romanoff, 2021). The UK's Competition and Markets Authority has looked at many aspects of the online market, including the online hotel booking



market, and discovered that some websites were engaging in practices that might deceive visitors (Competition and Markets Authority, 2020). The European Commission, on the other hand, has opened high-profile investigations into tech behemoths like Google and Amazon for suspected anti-competitive behaviour, such as favouring their services in search results and placing unfair limitations on online shops (European Commission, 2019). In addition, changes in competition law have resulted from the UK's exit from the EU. The UK has kept its framework for competition law and is still enforcing it through the CMA. However, there is a chance that future UK and EU competition laws will differ, which might impact online companies that operate in both markets.

## **Discussion**

Businesses operating in both markets must consider the distinctions between the EU and UK's online business competition regulations. For instance, a company might abide by UK competition law while breaking EU competition law, and vice versa. Due to the potential for legal uncertainty, firms may need to modify their operations to comply with both legal systems. Businesses operating in both markets must consider the distinctions between the EU and UK's online business competition regulations (Wheeler, 2023). For instance, a company might abide by UK competition law while breaking EU competition law, and vice versa. Due to the potential for legal uncertainty, firms may need to modify their operations to comply with both legal systems (European Union, 2021).

Consequently, the methods used to enforce the competition laws in the UK and the EU differ significantly regarding online enterprises. While the European Commission has jurisdiction over the entire EU, the UK's Competition and Markets Authority is a national competition authority in charge of upholding competition law in the UK. The European Commission seeks to defend market competition, but the CMA emphasizes boosting consumer welfare. In

circumstances where the priorities are identical, the results could differ (European Court of Auditors, 2018).

The oversight of mergers and acquisitions in the online industry is another area of worry. Some huge online enterprises have dominated their sectors thanks to the UK's lax merger and acquisition regulations. The EU, in contrast, has imposed stricter rules on mergers and acquisitions in the online industry (European Court of Auditors, 2018). Businesses operating in both markets may need to modify their merger and acquisition plans to comply with both legal frameworks, as the UK and EU competition regulations vary. Applying competition law to online sales and resale price maintenance is another problem (European Court of Auditors, 2018). The UK and the EU have released guidance on spreading competition law to internet sales. However, the criteria do differ from one another, notably in terms of maintaining resale prices. Resale price maintenance is handled less strictly in the UK than in the EU, which has drawn criticism from some sectors.

The regulation of online enterprises is uncertain due to the UK's exit from the EU. The UK has kept its framework for competition law and is still enforcing it through the CMA. However, there is a chance that future UK and EU competition laws will differ, which might impact online companies that operate in both markets (UK Parliament, 2023). Due to the divergence, businesses may need to modify their procedures to comply with both legal frameworks, which may lead to legal confusion. The significance of data and algorithms in internet enterprises and their consequences for competition law is one area that needs more research. Online firms mainly rely on data and algorithms when setting prices, choosing search results, and targeting adverts. Both pro- and anti-competitive impacts can result from using data and algorithms (UK parliament, 2023). Data can be utilized, for instance, to produce novel products and services, but it can also impose entry barriers or practice price discrimination.

The employment of algorithms by online enterprises might make it difficult for authorities to enforce competition laws. Since algorithms are frequently opaque, it can be challenging to spot anti-competitive behaviour. Algorithms can encourage collusion or other anti-competitive behaviour without the knowledge or understanding of the companies utilizing them (OECD, 2017). Research and discussion on the implications of algorithms for competition law enforcement are ongoing. The application of competition law to internet platforms that serve as market gatekeepers is another topic of concern. Some internet platforms have dominated their respective industries and have access to critical resources or services, including app marketplaces or search engines (OECD, 2017). Due to this, the media may have a huge bargaining advantage over other companies and customers, which they may exploit to engage in unfair business practices. Whether the current structure of competition law is adequate to solve these challenges or whether more regulation is required is a topic of continuous discussion.

## **Conclusion**

This research has compared and contrasted the function of business competition law in online firms in the UK and the EU. According to a survey of the literature and case law, both legal systems include strong competition rules meant to foster market competition and safeguard the interests of consumers. Nevertheless, there are variations in the legal systems, especially regarding priorities and the ability to enforce laws. Due to the variances, organizations operating in both markets may need to modify their procedures to comply with both legal systems. To provide a level playing field for firms and consumers, policymakers should consider the implications of the discrepancies and endeavour to harmonize the legal frameworks. Moreover, businesses operating in both markets must consider the ramifications of the variations between the EU and the UK's

online business competition legislation. Due to the variances, organizations using both markets may need to modify their procedures to comply with both legal systems.

To provide a level playing field for firms and consumers, policymakers should consider the implications of the discrepancies and endeavour to harmonize the legal frameworks. According to the literature, competition law is crucial for regulating online enterprises and fostering competition in online markets. However, enforcing competition laws in the Internet market can be challenging. To successfully control them, competition authorities must adjust to the distinctive characteristics of online marketplaces.

## References

- APEC. (2022). *Competition Law and Regulation in Digital Markets*. APEC.  
<https://www.apec.org/publications/2022/03/competition-law-and-regulation-in-digital-markets>
- ASMAH. (2022). The role of business competition law in online business: A comparative study of the United Kingdom and Indonesia. *Cogent Social Sciences*, 8(1).  
<https://doi.org/10.1080/23311886.2022.2142398>
- Competition and Markets Authority. (2020). *CMA launches enforcement action against hotel booking sites*. GOV.UK. <https://www.gov.uk/government/news/cma-launches-enforcement-action-against-hotel-booking-sites>
- Competition and Markets Authority. (2022, April 29). *The State of UK Competition Report April 2022*. GOV.UK. <https://www.gov.uk/government/publications/state-of-uk-competition-report-2022/the-state-of-uk-competition-report-april-2022>
- European Commission. (2020). *Press corner*. European Commission - European Commission.  
[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1703](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1703)
- European Commission. (2018, July 18). *Antitrust: Commission fines Google €4.34 billion for illegal practices regarding Android mobile devices to strengthen the dominance of*

- Google's search engine.* European Commission.  
[https://ec.europa.eu/commission/presscorner/detail/en/IP\\_18\\_4581](https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4581)
- European Commission. (2020a). *Press corner.* European Commission - European Commission.  
[https://ec.europa.eu/commission/presscorner/detail/el/ip\\_19\\_4350](https://ec.europa.eu/commission/presscorner/detail/el/ip_19_4350)
- European Commission. (2020b). *What is competition policy - brief definitions.* Competition-Policy.ec.europa.eu. [https://competition-policy.ec.europa.eu/consumers/what-competition-policy/what-competition-policy-brief-definitions\\_en](https://competition-policy.ec.europa.eu/consumers/what-competition-policy/what-competition-policy-brief-definitions_en)
- European Commission. (2021). *Why is competition policy important for consumers?* Competition-Policy.ec.europa.eu. [https://competition-policy.ec.europa.eu/consumers/why-competition-policy-important-consumers\\_en](https://competition-policy.ec.europa.eu/consumers/why-competition-policy-important-consumers_en)
- European Commission. (2019). *Press corner.* European Commission.  
[https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_4291](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_4291)
- European Council. (2019). *Competition rules.* Your Europe - Business.  
[https://europa.eu/youreurope/business/selling-in-eu/competition-between-businesses/competition-rules-eu/index\\_en.htm](https://europa.eu/youreurope/business/selling-in-eu/competition-between-businesses/competition-rules-eu/index_en.htm)
- European Court of Auditors. (2018). *Enforcement of EU competition policy Information on a forthcoming audit Background paper.*  
[https://www.eca.europa.eu/Lists/ECADocuments/BP\\_COMPETITION/BP\\_COMPETITION\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/BP_COMPETITION/BP_COMPETITION_EN.pdf)
- European Parliament. (2019, April). *Competition policy | Fact Sheets on the European Union | European Parliament.* Europa. eu.  
<https://www.europarl.europa.eu/factsheets/en/sheet/82/competition-policy>

- European Union. (2021). *Competition between businesses, EU competition rules*. Your Europe.  
[https://europa.eu/youreurope/business/selling-in-eu/competition-between-businesses/index\\_en.htm](https://europa.eu/youreurope/business/selling-in-eu/competition-between-businesses/index_en.htm)
- FSB. (2021). *UK Small Business Statistics*. Fsb.org.uk. <https://www.fsb.org.uk/uk-small-business-statistics.html>
- GOV.UK. (2022). *CMA investigates Amazon over suspected anti-competitive practices*. GOV.UK.  
<https://www.gov.uk/government/news/cma-investigates-amazon-over-suspected-anti-competitive-practices>
- Lomas, N. (2021, November 5). *UK to probe fairness of personalized pricing practices in online retail*. TechCrunch. <https://techcrunch.com/2018/11/05/uk-to-probe-fairness-of-personalized-pricing-practices-in-online-retail/>
- Mor, F. (2020). The UK competition regime. *Commonslibrary. parliament*. UK, 6(345).  
<https://commonslibrary.parliament.uk/research-briefings/sn04814/>
- OECD. (2017). *ALGORITHMS AND COLLUSION Competition policy in the digital age*.  
<https://www.oecd.org/daf/competition/Algorithms-and-collusion-competition-policy-in-the-digital-age.pdf>
- OECD. (2020). *The Role of Competition Policy in Regulatory Reform*.  
<https://www.oecd.org/daf/competition/sectors/2497293.pdf>
- Rai, D. (2021, September 13). *Enforcing competition laws in the UK: a critical overview*. IP leaders. <https://blog.ipleaders.in/enforcing-competition-laws-uk-critical-overview/>
- Romanoff, T. (2021, December 16). *Comparison of Competition Law and Policy in the US, EU, UK, China, and Canada* | Bipartisan Policy Center. [Bipartisanpolicy.org](https://bipartisanpolicy.org).

<https://bipartisanpolicy.org/blog/comparison-of-competition-law-and-policy-in-the-us-eu-uk-china-and-canada/>

Shalchi, A. (2021). *The UK competition regime.*

<https://researchbriefings.files.parliament.uk/documents/SN04814/SN04814.pdf>

UK parliament. (2023). *Post-pandemic economic growth: state aid and post-Brexit competition policy.* United Kingdom Government.

<https://publications.parliament.uk/pa/cm5803/cmselect/cmbeis/759/report.html>

Wheeler, T. (2023, March 8). *The UK and EU establish positions as regulatory first movers while the US watches.* Brookings. <https://www.brookings.edu/blog/techtank/2023/03/08/the-uk-and-eu-establish-positions-as-regulatory-first-movers-while-the-us-watches/>

Wright, L. (2021). *Competition law risk: a short guide.* GOV.UK.

<https://www.gov.uk/government/publications/competition-law-risk-a-short-guide/competition-law-risk-a-short-guide>