



ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA

Consumers & SMES
in the Digital Single Market
Jean Monnet Centre of Excellence



Digi-ConSME
Jean Monnet Centre of Excellence

NEWSLETTER 2/2022

NEWS from JEAN MONNET CENTER OF EXCELLENCE Consumers & SMEs in the Digital Single Market

Short Course series

Digi-ConSME develops a series of free courses taught by resident and associated staff members, including qualified professionals. The courses are designed to raise awareness on the European dimension and provide a basic knowledge of the principles surrounding a number of challenges facing SMEs and consumers in the age of digitalisation and technologies.

27 April 2022 - 14.30 – 18.30

Free movement of goods and IP exhaustion in the digital market

Professor Irene Calboli

12 May 2022 - 14.30 – 18.30

Digital frauds and consumer protection

Professor Nicola Soldati

Professore associato di diritto dell'economia – Alma Mater Studiorum Università di Bologna

24 May 2022 - 14.30 – 18.30

Competition policy in markets with complementary goods and the “complementarization” of substitute goods: the case of digital goods

Professor Emanuela Carbonara

Professoressa ordinaria di economica – Alma Mater Studiorum Università di Bologna

5 July 2022 - 10.00 – 12.00

Online platforms before the EU Courts

Professor Claudia Golino

Professoressa ordinaria di diritto dell'economia – Alma Mater Studiorum Università di Bologna

Carlo Tovo

Legal Secretary at the European Court of Justice, in the chambers of Judge L. S. Rossi

Seminar series “The new frontiers of innovation, policy and law”

26 April 2022

Algorithmic Arts, Digital Creativity and Aesthetical Progress in Patent Law

Aula Seminari, Torretta SDE, Strada Maggiore 45 Bologna

Chair: Professor Federico FERRETTI (UNIBO)

Speaker: Professor Nari LEE (Hanken School of Economics, Finland)

20 April 2022

Class actions: Recent UK developments

Aula Seminari, Torretta SDE, Strada Maggiore 45 Bologna

Chair: Professor Federico FERRETTI (UNIBO)

Speaker: Professor Stephan Dnes

14 and 15 March 2022

Arbitration in the Digital Age – an Opportunity for the Internationalisation of SMEs?

SEMINAR – Aula 11, Piazza Scaravilli 4

Chair: Professor Federico FERRETTI (UNIBO)

Speaker: Professor Peter PETKOFF (Brunel University London and Regents' Collge University of Oxford)

Publications:

In our newsletter, we'll suggest you interesting publications provided by the members of our Centre.

This time we propose you:

1. F. Ferretti, *A Single European Data Space and Data Act for the Digital Single Market: on Datafication and the Viability of a Psd2-Like Access Regime for the Platform Economy*, in 14(1) *European Journal of Legal Studies*, p. 173-218.
It is an open access academic paper, available from <https://ejls.eui.eu/issues/issue-141/>
ABSTRACT: In its new digital strategy for Europe, the EU highlights the need for better data access and sharing. In line with this priority, it is working on a proposal for a Data Act that aims to provide the underlying legal framework. This paper seeks to disentangle key legal concepts and issues related to datafication that affect the envisaged European Data Space. It reveals that the EU already has a suitable regulatory model under the Payment Services Directive 2 ('PSD2'). The strategy focuses on market imbalances of the platform economy and challenges the legitimacy of large technological companies ('Big-Techs'). The latter act as gatekeepers to maintain a key role in data-access and monetise their data dominance. The paper casts into question the existence of a data market, suggesting that the EU already has a viable legislative model provided by the 'PSD2' sectoral legislation. Its data access model could be applied horizontally across data-driven markets and the platform economy without engineering new rules or adding regulatory layers.
2. R. Plato Shinar, *Regulating Liability for Unauthorised Digital Payments: Insights for South Africa*, in Annual Banking Law Update 2020, Recent Legal Developments of

Special Interest to Banks, Charl Hugo and Sarel du Toit, Juta and Company (Pty) Ltd, 2020, p. 1-22.

ABSTRACT: The article deals with risk allocation in cases of unauthorized digital payment transactions. Since in most cases the rogue cannot be found or sued for reimbursement, the main question in respect of unauthorized payments is who should bear the loss: Whether the payment instrument's user, the payee, or the payment service providers.

While other countries chose to regulate this issue by legislation, in South Africa the main arrangement is included in the Code of Banking Practice of the Banking Association of South Africa, which constitutes soft law. In addition, the arrangement of the Code provides customers with a much narrower protection in comparison to legislation that was enacted in various countries. Furthermore, the Code of Banking Practice only applies to banks, in contrast to non-bank financial service providers.

The article provides a comparative analysis of three legal arrangements as to the above mentioned risk allocation: The Second European Directive on Payment Services (PSD2), the Israeli Payment Services Law 2019, and the South African Law. Based on this comparison, the article offers an outline of risk allocation between the parties involved, whilst balancing consumer protection and commercial efficiency.

3. R. Plato Shinar, *The New Israeli Law on Payment Services: Towards a new world of digital payments*, in *Banking & Finance Law Review*, 35 B, 2020, p. 351-381.

ABSTRACT: The article explores the latest Israeli law on digital payment services - the Payment Services Law 2019 - which was very much inspired by the European Payment Services Directive (PSD2).

The Law addresses the relationship between payment service providers and their customers. It prescribes explicit liability arrangements and reflects a strong consumer protection approach. In certain issues it provides even broader protection for the users of the digital payment services, than that included in the PSD2.

The article analyzes three major issues included in the Law: The liability of the payment service provider with respect to executing the customer's payment instruction; the payer's ability to cancel a payment order; and risk allocation in cases of unauthorized use of a payment instrument by a third party.

Blog:

19 October 2022

Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R2065&from=EN>

26 September 2022

Fourth report confirms SURE success in protecting jobs during pandemic

The Commission has published its fourth bi-annual report on the implementation and impact of SURE, the €100 billion instrument designed to protect jobs and incomes affected by the COVID-19 pandemic.

https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5743

26 September 2022

Single Market: Commission committed to transparency and cooperation with Member States

Following the recent proposal on new rules for addressing Single Market future emergencies, the Commission is today showcasing the availability of essential existing tools to ensure the free movement of goods and services for smooth functioning of the Single Market.

https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5790

19 September 2022

A “Relief Package” to give our SMEs a lifeline in troubled waters | Blog of Commissioner Thierry Breton

The European Commission presented a Single Market Emergency Instrument to preserve the functioning of our Single Market and of our supply chains in times of crisis – including the provision and purchasing of essential products and services by Europe's SMEs.

https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_5653

14 September 2022

Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

[https://eur-lex.europa.eu/legal-](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R1925&qid=1668016901931&from=en)

[content/EN/TXT/PDF/?uri=CELEX:32022R1925&qid=1668016901931&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R1925&qid=1668016901931&from=en)

28 July 2022

Digital Economy and Society Index 2022: overall progress but digital skills, SMEs and 5G networks lag behind

The European Commission published the results of the 2022 Digital Economy and Society Index (DESI), which tracks the progress made in EU Member States in digital.

https://ec.europa.eu/commission/presscorner/detail/en/IP_22_4560

05 July 2022

Communication of the Commission, "A New European Innovation Agenda"

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0332&from=EN>

March 31, April 1, 4, 5 2022 3.00 p.m. – 5.00 p.m.

The Consumer and the Law in the new European Digital Order

Hans W. Micklitz (EUI Florence)

DSG VISITING PROFESSOR

April 4, 2022 5.00 p.m. – 7.00 p.m.

The Artificial Intelligence Act Proposal and its implications for consumers

Martin Ebers (University of Tartu)

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Sincerely,



CONSUMERS&SMES IN THE DIGITAL SINGLE MARKET
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