



Brugge

GCLC

College of Europe  
Collège d'Europe

Global Competition Law



Natolin

Center

## 13<sup>th</sup> ANNUAL CONFERENCE OF THE GCLC

### ***"FAIRNESS" IN COMPETITION LAW AND POLICY: SIGNIFICANCE AND IMPLICATIONS***

**25-26 January 2018**

**RESIDENCE PALACE, BRUSSELS**

*The idea of fairness has recently re-entered the policy discourse underpinning competition law enforcement, in the EU and beyond. Of course, the term “unfair” can be found in the EU Treaty and the avoidance of consumers’ exploitation is the ultimate aim of competition principles. Still, the boundaries of fairness as a driver of competition enforcement appear unclear and, for some, dangerously flexible. At the same time, whilst the application of competition rules has over the years been focusing on restrictions to the competitive process with the effect of harming consumers, a wave of cases recently brought or decided at EU and national level appear to be inspired by wide and somewhat elusive fairness considerations, including non-discrimination, neutrality, equality of opportunities, natural justice or avoidance of abuse of law. Reference can be made to cases relating to product design, IP licensing, geo-blocking, network neutrality, privacy concerns or fiscal justice. Leaving aside due process issues, the conference will explore how fairness may guide competition enforcement, what its significance may be in explaining recent trends and actual outcomes, and what implications can be observed or expected by relying on a fairness standard in the design of substantive principles. Associating lawyers and economists, practitioners and academics, the conference will therefore seek to explore the boundaries of fairness in a world where the rationality of markets has been profoundly shaken by recent crises.*

# DAY 1

8:30 – 9:00 Registration

**9:00 – 9:10 Welcome Address**

Jörg Monar  
Rector, College of Europe

**9:10 – 9:20 Presentation of the Conference**

Assimakis Komninou  
White & Case, GCLC

**9:20 – 9:45 Keynote Speech**

Margrethe Vestager  
EU Commissioner for Competition

9:45-10:00 Q&A Session

## PART I: THE SIGNIFICANCE OF FAIRNESS

**Chair:** Maurits Dolmans  
Cleary Gottlieb Steen & Hamilton

### Fairness as an Objective of Competition Law Exploring the Roots

**10:10-10:30 Markets under siege: towards a fair economy?**

Paul De Grauwe  
London School of Economics and Political Sciences

**10:30-10:50 Fairness as a foundational concern in competition law enforcement**

Michal Gal  
University of Haifa and ASCOLA Chair

**10:50-11:10 Historical and contextual position of fairness in substantive EU competition law**

**Pinar Akman**  
University of Leeds

11:10-11:25 Q&A Session

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11.25-11:40 Coffee Break

**Fairness in Competition - Exploring the Boundaries**

**Chair:** **Jacques Bourgeois**  
Sidley Austin & GCLC

**11:45-12:05 Fairness in economics: can it “make sense”, and how?**

**David Spector**  
Paris School of Economics and MAPP

**12:05-12:25 Unfair commercial practices and fair competition**

**Jules Stuyck**  
Crowell & Moring

**12:25-12:45 Policy-driven regulation vs neutral competition**

**Leigh Hancher**  
Tilburg University

12:45-13:00 Discussion - Q&A Session

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13:00-14:30 Lunch

## Fairness in Selected Domestic Enforcement Practices

**Chair:** *Cani Fernandez*  
Cuatrecasas

**14:40-15:00** Fairness in French competition law

*Christophe Lemaire*  
Ashurst

**15:00-15:20** Fairness in German competition law

*Thomas Lübbig*  
Freshfields

**15:20-15:40** Fairness in US competition law (and common law tradition)

*Eleanor Fox*  
New York University School of Law

15:40-15:55 Q&A Session

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15:55-16:10 Coffee Break

## PART II: THE IMPLICATIONS OF FAIRNESS

**Chair:** *Luis Ortiz Blanco*  
Garrigues & College of Europe

## Beyond Goals: Fairness in Coordinated Practice Cases

**16:20-16:40** Competition, copyright licensing and the EU Digital Single Market – a fairness conundrum?

*Dirk Arts*  
Allen & Overy

**16:40-17:00 Regulating e-commerce through competition rules - a fairness agenda?**

**Helen Jenkins**  
Oxera

**17:00-17:20 Arbitrating between competition and other social aims in coordinated practices - a fairness dilemma?**

**Anna Gerbrandy**  
Universiteit Utrecht

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**18:00-18:20 Keynote speech by Advocate General Juliane Kokott, European Court of Justice**

## **DAY 2**

### **PART II: THE IMPLICATIONS OF FAIRNESS (con't)**

**9:00 Chair:** **Johannes Laitenberger**  
Director General, DG COMP

#### **Beyond Goals: Fairness in Unilateral Practice Cases**

**9:10-9:30 The Rediscovery of excessive pricing in Europe – fairness in action?**

**Lorenzo Coppi**  
Compass Lexecon & College of Europe

**9:30-9:50 Discrimination as abuse of dominance - the limits of fairness?**

**Kristina Nordlander**  
Sidley Austin

**9:50-10:10 Meeting competition defence – fair or unfair?**

**David Bailey**  
King's College London

10:10-10:25 Q&A Session

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10:25-10:40 Coffee Break

### **Beyond Goals: Fairness in State Aid Cases**

**Chair:** Massimo Merola  
Bonelli Erede & GCLC

**10:50-11:10 Fairness and the objectives of State aid policy – an overview**

Paolo Stancanelli  
EU Commission Legal Service

**11:10-11:30 Fairness and selectivity – testing the limits of State aid rules?**

Nina Niejahr  
Baker & McKenzie

11:30-11:45 Q&A Session

### **PART III: CLOSING PANEL**

#### **ADMINISTRABILITY OF FAIRNESS STANDARDS BY COURTS**

**Chair:** Frederic Jenny  
Chair, OECD Competition Commission

**11:55-12:25 Perspective of the National Courts**

Peter Roth  
Chair, Competition Appeal Tribunal

**12:25-12:55 Perspective of the EU Courts**

Marc van der Woude  
EU General Court, vice-President

## FURTHER INQUIRIES

Joanna Hornik  
Executive Secretary  
Email: [info.gclc@coleurope.eu](mailto:info.gclc@coleurope.eu)  
Website: <http://gclc.coleurope.eu>

## VENUE

**Residence Palace**  
Rue de la Loi 155  
B-1040 Brussels

