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LE POINT DE MIRE DU CONSEIL FSA

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CCBE

En introduction à la séance du Comité permanent du CCBE du 13.9.2019 passé, qui s'est tenue à Copenhague à l'occasion du 100^e anniversaire du barreau danois, les membres du Comité permanent ont eu le privilège d'entendre un discours de la toute nouvelle Vice-présidente de la Commission européenne, Mme Margrethe Vestager, qui est également depuis un certain temps déjà la Ministre de la concurrence au sein de la Commission européenne. Mme Margrethe Vestager, après avoir rappelé la puissance des moteurs de recherche comme Google ou Facebook, puissance dont ces géants peuvent parfois mésuser, a insisté sur le fait que ces plateformes jouaient aujourd'hui un rôle central sur nos «vies digitales», et qu'il existait des risques d'utilisations non-contrôlées des données personnelles de tout un chacun.

La Ministre, après avoir présenté les raisons pour lesquelles elle estime que le monde digital nécessite une certaine régulation, conclut son intervention par un rapprochement entre cette nécessité de régulation du monde digital et la même nécessité de fortes règles éthiques pour la profession d'avocat.

Nous publions ici l'intégralité du discours de Mme Margrethe Vestager.

CCBE

Im Rahmen der Sitzung des Ständigen Ausschusses CCBE vom 13.9.2019 hatten die Teilnehmer das Privileg, anlässlich des 100. Jahrestages der dänischen Anwaltskammer einer Rede der neu ernannten Vizepräsidentin der Europäischen Kommission, Margrethe Vestager, die seit einiger Zeit auch Wettbewerbsministerin der Europäischen Kommission ist, beizuwohnen. Margrethe Vestager erinnerte an die Macht von Suchmaschinen wie Google oder Facebook, eine Macht, die diese Riesen missbrauchen könnten, und betonte, dass diese Plattformen heute eine zentrale Rolle in unserem «digitalen Leben» spielten und dass die Gefahr einer unkontrollierten Nutzung der personenbezogenen Daten aller Beteiligten bestehe.

Nachdem die Ministerin die Gründe dargelegt hatte, warum sie der Ansicht ist, dass die digitale Welt ein gewisses Mass an Regulierung erfordert, schloss sie ihre Ausführungen mit der Zusammenführung dieser Notwendigkeit einer Regulierung der digitalen Welt und der gleichen Notwendigkeit strenger ethischer Regeln für den Rechtsberuf.

Wir veröffentlichen hier den Volltext dieser Rede von Margrethe Vestager.

CCBE Standing Committee, Copenhagen, 13 September 2019

Introduction

Ladies and gentlemen

It's a very great pleasure to be here today with you, the representatives of Europe's legal profession.

Our European Union is a Union based on law. The rule of law in Europe is the visible sign of our commitment never to fall back into the tyranny and violence of the last century. It's a promise to Europeans that the law will protect everyone, not just the rich and powerful among us. And it gives our people the security they need, to get on with life in the way that's right for them.

And you – Europe's lawyers – are the ones who make the rule of law a reality. You're the ones who stick to the task of applying the law, even while voices around you are clamouring for shortcuts to be taken. And I'm very glad to have this chance to thank you, for all that you do.

I'm especially happy to be here right now, in the year when the Danish Bar and Law Society is celebrating its centenary. So I can add my voice to the chorus of appreciation for its work – standing up for the rule of law here in Denmark, and enforcing the very highest ethical standards.

Those ethical rules are the reflection, of course, of the influence that lawyers have in people's lives. Because it's a basic principle of our democratic societies – that where you have influence, you also need rules, to make sure that influence is used in the interests of society.

The power of digital platforms

And as the world changes, and new types of power and influence grow, the rules we have need to keep up with those changes.

Today, for example, digitisation is finding its way into every part of our lives. It's given us new ways to stay in touch with our friends. It's put the world's knowledge at our fingertips, and given us control of the way we shop or read the news or watch TV. And those changes have also given some digital businesses new power over our lives.

Digitisation creates enormous possibilities for connection. But we need a way to filter those possibilities – to find the product that we want, or the information we need. And the digital platforms that help us to do that – the search engines and social media networks and online marketplaces – can become enormously powerful, by controlling our access to the benefits of digitisation.

Tackling self-preferencing

We've come to rely on these platforms as our window on the digital world. And by doing that, we've also given them the power to decide what we see of that world. Their choices, about which websites and businesses to put at the top of their rankings, and which to rank lower down, shape our knowledge of what's out there. Some 95% of clicks in Google search results are on the very first result on page 1. By the time you get to page 2, you find that the first result gets only 1% of clicks.

Many of us worry about what that filtering means for our own sense of truth and reality. It's often very hard for us to know what's being filtered out, and why. But one thing we do know – because we've seen it happen – is that platforms sometimes use that power in a way that's designed to favour their own commercial interests.

That can happen, for instance, when digital platforms are both player and referee – when they don't just run the platform, but also compete with other companies that rely on the platform to do business. In those cases, the temptation to tweak the way the platform works, to make their own services more visible than their rivals', can be hard to resist.

And when that happens, consumers can end up paying the price. As competition in these markets fades away, they can lose out on choice, and on the innovation which competitive markets provide.

That's why, two years ago, we fined Google nearly two and a half billion euros, for misusing the power of its platform – its search engine – to undermine its rivals in the market for comparison shopping.

And that decision isn't a one-off. We know that whenever a platform acts as both player and referee, the temptation will be there to use its position to undermine competition in other markets. So we're keeping a close eye on how these platforms use their power. And right now, for example, we're looking at whether Google used its platform to help its job search business, Google for Jobs.

The role of data

Because powerful platforms, like Google's search engine, have a central role in our digital lives. And from that position, they can have enormous influence over the whole digital world.

As consumers, we know that when we sign up for these platforms, we're giving them permission to collect and use our data. But we don't always realise just how deeply their hunger for data reaches into our lives.

In fact, the more you look at how digital platforms work, the more you see that for many of them, collecting large amounts of data is right at the heart of their business models. It's a bit like one of those "magic eye" pictures that were popular in the nineties – the ones that just looked like a jumble of colour, until you unfocused your eyes to see the hidden 3D picture. It can be hard at first to see what the many different things that digital platforms do have in common with each other. Until, that is, you take a step back, and suddenly see that the common thread is that they're all ways to collect data.

Because in the digital world, data can be hugely valuable. It can help companies compete, by finding new ways to cut costs, or understanding better the needs of their customers. It's the raw material that trains artificial intelligence to take faster and better decisions than humans.

And perhaps most importantly of all for these platforms, it helps them to target digital advertising better. It's no coincidence that Google and Facebook, which are both determined collectors of data, are also leaders in advertising: between them, they get some six out of every ten digital advertising dollars that are spent in the US.

And so digital platforms can be even more powerful than they seem at first sight. Because it's not just the size of those platforms that's important. It's also the control that they have over data.

So as competition authorities, we need to keep a close eye on the way that digital platforms deal with data – on how they collect data, and what they do it. And we need to be prepared to take action, if we find that they're using their control of data to undermine competition and harm Europe's consumers.

Competition and regulation

But to tackle the challenges which the digital transformation creates for Europe, we also need to look beyond competition. So I'm very happy – as well as humbled – that Ursula von der Leyen, the President-elect of the Commission, has asked me to take responsibility for making Europe fit for the digital age – as well as continuing my work on competition.

Competition makes markets work better for us as consumers – because it means that businesses have to listen to our needs. It can drive businesses to cut prices and innovate more. It can also encourage them to make products that are better for the environment, or to provide digital services that protect our privacy better.

So it's understandable that people sometimes think of competition as a panacea, a universal answer to all society's problems.

But it can't be that – because competition doesn't work that way. Competition is a process – a sort of negotiation between consumers and businesses. When we enforce the competition rules, we balance out the power in that negotiation, so consumers get a fair deal. But we don't get to say what the final deal should be.

So if, as a society, we want to lay down fundamental standards – if we want to define the market, to set out what's acceptable and what isn't – then what we need is not more competition enforcement. We need regulation.

Regulating the digital market

If platforms misuse their control of our access to the digital world, in a way that harms competition and consumers, then competition enforcers can take action – as we did in the case of Google Shopping.

But competition is only part of the issue. When platforms manipulate the way we see the world, in ways that we often don't even notice, that affects our ability to understand the world around us. It can be hard for us to make good decisions, if we're not confident of the facts. And that can stop our markets, and even our democracies, from working well.

A few months ago, the European Parliament and the Council adopted our proposal for new rules, to help make sure that platforms treat their business customers fairly. They'll have to explain, for example, the principles they use when they rank different providers. It's a good example of the sort of transparency we may need, to live comfortably with the power of digital platforms.

We'll also need to think about how we deal with data. Because data is not just an issue for competition.

These days, data is the key to understanding the world – including the way that people think and act. And the more you understand something, the better you can control it. So when a few companies control a lot of data about us, that can also help them influence the choices we make.

Our data protection rules already give Europeans control over their own data. They allow me to stop companies misusing my data in a way that's bad for me. But they don't help me, if the problems come from the way that they use other people's data, to draw conclusions about me or to undermine democracy. So we may also need broader rules to make sure that the way companies collect and use data doesn't harm the fundamental values of our society.

Conclusion

These regulations don't mean we've lost confidence in the value of competitive markets. But we need to remember that markets are there to serve people, not the other way round. As a society, it's our absolute right to define the basic standards that we expect our markets to live up to.

And by doing that, we're not undermining digital technology. Quite the opposite: we're helping society to get the most out of digitisation.

As lawyers, you know that strong ethical rules are good for the profession. Because they give people confidence that their lawyers really do have their best interests at heart.

And in a similar way, successful digitisation depends on having effective rules in place, to give people confidence that digitised businesses will treat them fairly.

That's what people need, so they can put their trust in digitisation, and unlock the true potential that it has, to make our lives easier and richer and more fun.

There's a mountain out there, with a thrilling view from the top. We're ready to climb it – but first, we need to take a moment to make sure all our ropes are secure.

Thank you.

Roland Norer

Landwirtschaftsgesetz (LwG)



- › Die 1. Kommentierung des Landwirtschaftsgesetzes
- › Kompass zu den Grundlagen des schweizerischen Agrarrechts
- › Schliesst eine Lücke in der agrarrechtlichen Literatur

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