TACKLING BIG TECH IN THE UNITED STATES AND THE EUROPEAN UNION—A COMPARISON OF THE DMA AND THE CALERA

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I. INTRODUCTION

The combined market capitalization of the ten largest technology companies is over 10 trillion U.S. dollars,[1] allowing them amass significant competitive power. Over the past decade, antitrust laws have been a common means to cabin tech giants' power. Renewed litigation efforts by the Federal Trade Commission (FTC), the Justice Department's Antitrust Division (DOJ), and the European Commission against prominent tech giants such as Apple,[2] Facebook,[3] and Google[4] support that finding. Antitrust laws will become more important as lawmakers of the major drivers of antitrust enforcement, the

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1. Paul Mozur et al., *A Global Tipping Point for Reining in Tech Has Arrived*, N.Y. TIMES (Apr. 20, 2021), https://www.nytimes.com/2021/04/20/technology/global-tipping-point-tech.html.

2. European Commission Press Release IP/20/1073, Antitrust: Commission Opens Investigation into Apple's App Store Rules (Aug. 5, 2021), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1073.

United States and the European Union, introduce new legislative proposals aimed at strengthening antitrust measures against Big Tech.

This commentary will (1) explain briefly the antitrust concerns affiliated with digital platforms, (2) show how traditional antitrust doctrine fails to satisfy these concerns, (3) present the U.S. Senate's Competition and Antitrust Law Enforcement Reform Act of 2021[5] (CALERA) and the European Digital Markets Act[6] (DMA), and (4) through comparison, show that although they differ on their faces, the proposals are not so different under the surface.

II. BIG TECH RAISES TRADITIONAL ANTITRUST CONCERNS

Digital platforms raise three traditional antitrust concerns: high entry barriers due to network and lock-in effects, their ability to leverage their power to integrate vertically and into other sectors, and exclusionary practices such as self-preferencing, price cutting, and denial of access to their powerful infrastructure or data.[7]

The exponential growth of digital platforms is facilitated by network and lock-in effects.[8] The more users on a platform, the higher the value to users and service providers who are drawn to the platform to capitalize on the large customer base. In turn, consumers are incentivized to prefer the dominant network.[9] The consequence is a cycle of growth irrespective of quality. This cycle means that entering the market becomes

3. Press Release, Fed. Trade Comm'n, FTC Sues Facebook for Illegal Monopolization (Dec. 9, 2020), https://www.ftc.gov/news-events/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization.

4. Press Release, Dep't of Just., Justice Department Sues Monopolist Google for Violating Antitrust Laws (Oct 21, 2020), https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-laws.

5. Competition and Antitrust Law Enforcement Reform Act of 2021, S. 225, 117th Cong. (2021–2022); this commentary will not discuss current House bills (H.R. 3816; H.R. 3825; H.R. 3826; H.R. 3849) or state proposals.

6. *Commission Proposal for a Regulation of the European Parliament and of the Council on Contestable and Fair Markets in the Digital Sector (Digital Markets Act)*, COM (2020) 842 final (Dec. 15, 2020) [hereinafter DMA].

7. K. Sabeel Rahman, *Regulating Informational Infrastructure: Internet Platforms as the New Public Utilities*, 2 GEO. L. TECH. REV. 234, 246 (2018).

8. Lina Khan, *Amazon's Antitrust Paradox*, 126 YALE L.J. 710, 761 (2017).

9. *Id.*

increasingly costly,[10] requiring high upfront investments on research and data collection or brand building which smaller companies have difficulty affording.[11]

The bigger the user base, the more suppliers and customers depend on the platform's infrastructure to sell and consume due its role as an intermediary.[12] This dependency provides platform operators with considerable bargaining power which enables them to leverage their dominance across other sectors and multiple stages within the distribution chain, and thereby integrate vertically.[13] Consequently, platform operators are more independent from third parties and can behave outside of market control.

Additionally, platform operators themselves oftentimes compete with the companies on their platforms. This leads to conflicts of interest that the platform operator can exploit to its advantage. Self-preferencing is the most apparent but not the only competitive advantage that is employed.[14] Due to the platforms' ability to collect data regarding their competitors' sales and customers' personalized preferences, platforms can adjust their products to customers' needs. Furthermore, due to their capital capacity, they can cut prices.[15] The problem is that personalization and lower prices based on facilitated tracing of competitors' failures and data accumulation are not competition "on the merits"[16] but competition based on the exploitation of competitive advantages.

III. Current Legal Frameworks

Although these concerns represent traditional antitrust themes,[17] current antitrust regimes struggle to adequately address the problems associated with Big Tech.

10. *Id.* at 785.

11. *Id.* at 772–74.

12. *Id.* at 755.

13. *See id.* at 774 (showing Amazon's vertical integrating through bargaining power).

14. *Id.* at 754.

15. *Id.* at 725.

16. Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263, 281 (2d Cir. 1979), *cert. denied,* 444 U.S. 1093 (1980).

17. John Flynn et al., Free Enterprise and Economic Organization: Antitrust 73 (7th ed. 2014); Majority Staff of H. Comm. on the Judiciary,

A. *United States*

Sections 1 and 2 of the Sherman Act[18] prohibit cartels and illegal monopolization. They are complemented by merger control through the Clayton Act[19] and the Federal Trade Commission Act which regulates enforcement by the FTC.[20] As opposed to economic structuralism prioritizing undisturbed market structures, U.S. antitrust doctrine mainly assesses market conduct under price theory (Chicago School) which focuses on consumer welfare[21] and short-term efficiencies associated with market practices.[22] This has resulted in courts scrutinizing mergers and exclusionary practices less vigorously over time.[23]

Generally, instead of capturing the emergence of self-enhancing power or preventing exclusionary conduct *ex ante*, or "in [its] incipiency,"[24] antitrust laws apply after an alleged violation has occurred, thus operating in an *ex post* manner.

Specifically, courts assess network industries under the premise that although there might not exist vibrant competition within the relevant market due to the "winner-takes-all"[25] effect generated by network effects, competition for the dominant position still exists.[26]

Moreover, modern price cutting schemes in vertically integrated and multi-market digital companies evade antitrust

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116TH CONG., INVESTIGATION OF COMPETITION IN DIGITAL MARKETS: REPORT AND RECOMMENDATIONS 6 (Comm. Print 2020).

18. Sherman Antitrust Act of 1890, 15 U.S.C §§ 1–8.

19. Clayton Act of 1914, 15 U.S.C. § 18 (amended 1950).

20. Federal Trade Commission Act of 1914, 15 U.S.C. §§ 41–58.

21. Khan, *supra* note 8, at 731.

22. Daniel Rubinfeld, *Antitrust Policy*, 1 INT'L ENCYCLOPEDIA SOC. AND BEHAV. SCIS. 553, 555 (2001).

23. Khan, *supra* note 8, at 738; *see* Carl Shapiro, *Antitrust: What Went Wrong and How to Fix It*, 35 ANTITRUST 33, 36–37 (Summer 2021) (stating that the Chicago School's views are "woven deeply into case law").

24. Brown Shoe Co., v. United States, 370 U.S. 294, 317, 322 (1962); United States v. Philadelphia National Bank, 374 U.S. 321, 362 (1963).

25. Luciano Floridi, *The Fight for Digital Sovereignty: What It Is, and Why It Matters, Especially for the EU*, 33 PHIL. & TECH. 369, 372–73 (2020).

26. Otter Tail Power Co. v. United States, 410 U.S. 366, 369 (1973) (regarding retail power distribution); *see* Richard A. Posner, *Antitrust in the New Economy,* 68 ANTITRUST L.J. 925, 926 (2001) (describing competition for dominance).

scrutiny due to outdated presumptions[27] of economic irrationality of price predation. Under Section 2 of the Sherman Act, price cutting is only illegal if the predator recoups undergone losses through monopolistic prices in the same market within a relatively short time.[28] However, digital platforms' business models rely on undergoing losses for the sake of building a strong brand in the long-term and subsidization through profits in other markets,[29] which current price predation doctrine is unable to grasp.

Finally, the government bears the high burden of proving anticompetitive harm of a proposed concentration by a preponderance of the evidence. Exacerbated by the Chicago School's proposition that vertical integration generally leads to pro-competitive efficiencies,[30] enforcement agencies are at risk of losing should their decision to prohibit a merger be appealed, resulting in decreased enforcement.

B. *European Union*

E.U. antitrust law is based on three grounds: the prohibition of anticompetitive agreements that prevent, restrict, or distort competition within the European Union's Single Market (Article 101 Treaty on the Functioning of the European Union (TFEU)),[31] the prohibition of the abuse of a dominant position employing an *ex post* review (Article 102 TFEU), and merger control (EC Merger Regulation)[32] with notification obligations enabling an *ex ante* analysis of the proposed transaction.[33] Although E.U. antitrust laws are more concerned with preserving a vibrant competitive process than U.S. doc-

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27. Shapiro, *supra* note 23, at 39.

28. Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 589 (1986); Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209, 226 (1993).

29. Khan, *supra* note 8, at 753.

30. Rubinfeld, *supra* note 22, at 556–57; Khan, *supra* note 8, at 731, 744.

31. Consolidated Version of the Treaty on the Functioning of the European Union, May 9, 2008, 2008 O.J. (C 115) 47 [hereinafter TFEU].

32. Council Regulation 139/2004, 2004 O.J. (L24) 1 [hereinafter EC Merger Regulation].

33. Zimmer, *in* Immenga/Mestm. . .cker, WETTBEWERBSRECHT – KOMMENTAR ZUM EUROP. . .ISCHEN KARTELLRECHT BAND 1 EU [Competition Law – Commentary on European Antitrust Law Volume 1] (6th ed. 2019).

trine,[34] they remain flawed regarding the contestability of Big Tech.[35]

The DMA identifies five insufficiencies. First, antitrust targets specific markets while digital platforms spread into multiple sectors. Thus, the current framework cannot capture the effects of mergers and anticompetitive conduct to their full extent. Second, companies operating in the digital economy are not necessarily "dominant" in antitrust law terms, meaning they evade scrutiny.[36] Third, antitrust enforcement is generally triggered after an infringement takes place, making it harder to undo the effects.[37] Fourth, considerable resources are required to prove an alleged violation.[38] Finally, "regulatory fragmentation" leads to enforcement gaps as some E.U. Member States have national antitrust laws with lower infringement thresholds, which is particularly problematic in light of the "intrinsic cross-border nature" of digital platforms.[39]

IV. New Proposals

The partially outdated antitrust doctrines render current legal foundations ill-suited to effectively tackle antitrust issues associated with Big Tech.[40] Both the United States and the European Union introduced competition proposals to fight Big Tech more effectively.

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34. Maria Coppola, Renato Nazzini, *The European and US Approaches to Antitrust and Tech: Setting the Record Straight—A Reply to Gregory J. Werden and Luke M. Froeb's Antitrust and Tech: Europe and the United States Differ, and It Matters*, CPI's Europe Column 6 (May 2020), https://www.ftc.gov/system/files/attachments/key-speeches-presentations/europe-column-may-2020-full.pdf.

35. DMA*, supra* note 6, at 2–3.

36. *Id.* at 15.

37. *Id.* at 3–4.

38. *Id.*

39. *Id.* at 4.

40. Randy Stutz, *Antitrust, Dominant Firms, and Public Policy Problems: A Framework for Maximizing Success by Minimizing Uncertainty*, AAI Reports 2 (June 28, 2021), https://www.antitrustinstitute.org/wp-content/uploads/2021/06/AAI-Knight-Paper-2-FINAL.pdf.; John M. Yun, *Does Antitrust Have Digital Blind Spots?*, 72 S. C. L. Rev. 305 (2020).

A. *United States*

CALERA, introduced as a bill on February 4, 2021, focuses on reforming existing merger control law and assessment of exclusionary conduct. It does so by lowering analytical thresholds, shifting evidentiary burdens, decreasing the importance of defining a relevant market, strengthening enforcement agencies, and protecting potential whistleblowers through changes of the Clayton Act, Federal Trade Commission Act, and Sherman Act.

Instead of requiring the current legal test of "substantial lessening of competition,"[41] the bill intends to lower the standard and forbid mergers that "create an appreciable risk of materially lessening competition."[42] "Material" is a lower bar than "substantial," meaning anything "more than a *de minimis* amount."[43] Most significantly, certain mergers are planned to be presumptively illegal, shifting the burden of showing there is no risk of materially lessening competition to the companies. The presumption applies when there would be "a significant increase in market concentration,"[44] companies with more than a fifty percent market share acquire a competitor, the value of a transaction is more than five billion U.S. dollars, or mergers of fifty million U.S. dollars or more by companies valued at a minimum of one hundred billion U.S. dollars occur. The standard to show there will not be an appreciable risk of materially lessening competition is the high hurdle of "preponderance of the evidence."[45] Overall, courts are obliged to take into consideration more structural aspects, meaning a moderate shift from consumer welfare analysis to a more structuralist approach. By altering the standard under Section 7 of the Clayton Act, the Senate intends to "arrest" anticompetitive mergers "in their incipiency."[46] Although that objective hints at a more *ex ante* approach, CALERA does not go as far as imposing a general notification requirement including a stand-

41. 15 U.S.C. § 18.

42. Competition and Antitrust Law Enforcement Reform Act of 2021, S. 225, 117th Cong. § 4(b)(3) (2021–2022).

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.* § 2(b)(2).

still obligation. Rather, it clarifies factors[47] which are supposed to lead to the prohibition of a merger and facilitates the prohibition through burden shifting.

Facilitating agency enforcement further, CALERA Section 9 inserts a new Section 26A into the Clayton Act which establishes a presumption of posing an "appreciable risk of harming competition" in cases involving exclusionary practices where an involved person has a market share of more than fifty percent or otherwise "significant market power." Where the presumption does not apply or is rebutted, CALERA Section 9 clarifies the requirements to condemn conduct as harming competition under a totality of the circumstances test, which includes structural considerations such as new or expanded market presence of competitors. Furthermore, it explicitly attacks the Chicago School's assumptions that have led to decreased efficiency of antitrust enforcement.[48] According to the proposed Section 26A, a finding of anticompetitive exclusionary conduct will, *inter alia*, no longer require the showing of recoupment of losses incurred by price cutting. CALERA also addresses platform operators directly by eliminating the requirement to show competitive harm on more than one side of multi-sided platform markets, thereby facilitating enforcement actions against Big Tech directly.

Furthermore, CALERA eliminates the requirement to define a relevant market for antitrust plaintiffs under Sections 1 and 2 of the Sherman Act and Section 7 of the Clayton Act.[49] This overhaul of long-standing antitrust doctrine[50] seems to considerably alleviate antitrust plaintiffs' burdens. However, the positive effect is diminished by the design of the presumption of an "appreciable risk of materially lessening competition" pursuant to CALERA Section 4(b)(3), which re-introduces the term "relevant market." Consequently, for the presumption to operate, antitrust plaintiffs still must define a relevant market to show that the thresholds are met. Hence, defining a relevant market will still play a significant role in enforcement actions against Big Tech.

47. *Id.* § 4(a).
48. *Id.* § 2(a)(21).
49. *Id.* § 13(a).
50. United States v. Marine Bancorp., 418 U.S. 602, 618 (1974); Walker Process Equip., Inc. v. Food Mach. & Chem. Corp., 382 U.S. 172, 177 (1965).

Moreover, the reform aims at strengthening the position of antitrust law enforcement agencies by increasing their funding to attract expert personnel and intensify investigations.[51] The establishment of the Office of the Competition Advocate[52] within the FTC is intended to effectively gauge and coordinate the work, provide recommendations, issue subpoenas, and publish post-consummation investigation reports to keep track of whether alleged procompetitive effects of a merger actually took place. If not, enforcement agencies can challenge an already consummated merger.[53] Penalties for non-compliance are increased and supplemented by civil penalties of fifteen percent of the total U.S. revenue or thirty percent of revenues in the affected "line of commerce."[54]

B. *European Union*

DMA is part of a new "European Digital Strategy," expected to take effect in 2023, regulating the digital economy specifically.[55] It complements existing E.U. competition rules[56] by introducing positive and negative commandments for a previously legally unknown category: the "gatekeeper" online platform; gatekeepers will be the exclusive personal scope of application. Although the definition of "gatekeeper" is narrow, once a company is deemed a gatekeeper platform, the scope of DMA is broad.

Under DMA Article 3(1), gatekeeper platforms are characterized by their systemic role in between businesses and customers for important digital services. Gatekeepers are companies that (1) have a strong economic position, significant impact on the internal market, and activity in at least three E.U. Member States;[57] (2) act as intermediaries, meaning that they

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51. Kate Kaye, *How a Proposed Antitrust Law Could Rein in Tech Platforms with 'Long Overdue' Enforcement Money*, DIGIDAY (Feb. 16 2021), https://digiday.com/media/proposed-antitrust-law-could-rein-in-tech-platforms/.

52. Competition and Antitrust Law Enforcement Reform Act of 2021, S. 225, 117th Cong. § 8(b) (2021–2022).

53. Kaye, *supra* note 51.

54. Competition and Antitrust Law Enforcement Reform Act of 2021, S. 225, 117th Cong. §§ 9(b), 10(a) (2021–2022).

55. The Digital Services Act Package, https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package (last visited Aug. 5, 2021).

56. DMA, *supra* note 6, at 3.

57. *Id.* recitals 17, 21.

connect a large user base (forty-five million active monthly users in the last financial year) to many businesses (ten thousand active business users in the last financial year);[58] and (3) have an "entrenched" (meeting the threshold for the past three years)[59] and "durable" (generating a turnover of EUR 6.5 billion)[60] position in the market. Companies that meet these quantitative thresholds are subject to a rebuttable presumption of qualifying as a gatekeeper[61] and are obliged to notify the Commission.[62] The burden to rebut the presumption is on the platform operator. Alternatively, the Commission can qualify companies as gatekeepers through a case-by-case qualitative assessment after conducting a market investigation.[63] Factors include structural considerations such as market capitalization, entry barriers derived from network effects, leveraging potential, and "other structural market characteristics."[64]

Once a company is characterized as a gatekeeper, it is subject to eighteen commandments. These consist of positive commands ("dos")[65] and prohibitions ("don'ts")[66] resembling behavioral remedies that are employed *ex ante*, that is, before an abuse of power occurs. "Dos" include interoperability obligations with the gatekeeper's services, access to user data, transparency in advertising intermediation—including access to tools and information needed to effectively place advertisements on their platforms, enabling business users to solicit and conclude contracts with users outside the platform, and facilitating user mobility. Don'ts consist of the prohibition on self-preferencing in rankings on the platform, preventing users from connecting to other businesses outside the platform, and preventing users from de-installing pre-installed apps and software. The approach neutralizes a dominant platform's abil-

58. *Id.* art. 3(2)(b).
59. *Id.* art. 3(2)(c).
60. *Id,* art. 3(2)(a).
61. *Id.* art. 3(2).
62. *Id.* art. 3(3).
63. *Id.* art. 3(6).
64. *Id.*
65. *Id.* art. 5.
66. *Id.* art. 6.

ity to exploit its dominance rather than breaking up its potentially beneficial power under economies of scale.[67]

Moreover, reinforcing the *ex ante* approach of DMA, gatekeepers will be obliged to notify proposed concentrations involving other providers of platform services irrespective of whether they are currently notifiable (Article 12).

The proposal's grant of concentrated regulatory powers to the European Commission is revolutionary. Traditionally, Member States have the primary authority. However, to keep up with the digital economy's ability to evolve rapidly, the Commission has broad discretion to conduct market investigations and introduce new obligations (Article 10). DMA also expands the Commission's investigatory and remedial powers (Articles 18 *et seq.*). It will be able to *inter alia* request information (Article 20), conduct on-site inspections (Article 21), and monitor compliance (Article 24).

Consequences of non-compliance include fines of up to ten percent of the company's total annual turnover (Article 26), periodic penalty payments of up to five percent of the average daily turnover (Article 27), and structural remedies such as divestitures for systemic infringements proven by a market investigation (Article 16).

V. Comparative Differences and Similarities

This section examines the following operative components: (A) scope of application and (B) means.

A. *Scope of Application*

While the European Union introduces an additional regime with DMA to complement existing E.U. antitrust laws, the United States is updating the existing laws themselves through CALERA. Consequently, E.U. antitrust enforcers will work with an additional scheme without prejudice to the application of TFEU Articles 101, 102, and the EC Merger Regulation,[68] while U.S. agencies and courts will work within the same framework but will have to adjust their application of the

67. *See* Michael Hirsh, *Big Talk on Big Tech–but Little Action*, Foreign Pol'y blog (Apr. 6, 2021), https://foreignpolicy.com/2021/04/06/big-tech-regulation-facebook-google-amazon-us-eu/.

68. DMA, *supra* note 6, art. 1(6).

Clayton, Federal Trade Commission, and Sherman Acts to the updated provisions. The different legislative approaches lead to the main difference of the proposals. While the European Union introduces an asymmetrical regime in that DMA applies to gatekeeper platforms exclusively, the United States continues to follow a general scheme that will apply beyond the digital sector.[69] Although the different approaches send different signals to the digital economy, the schemes still share a common core objective.

B. *Means*

DMA builds on the introduction of positive and negative commandments. The dos and don'ts hint at the acceptance of extraordinary power in the digital economy to maintain the benefits of scale. At the same time, they alleviate the identified anticompetitive effects by providing a level-playing field and fair business environment for businesses that depend on gatekeepers to provide their services. The commandments enable innovative startups to operate their businesses without the obligation to agree to restrictive terms and facilitate the switch between providers for consumers *ex ante*. Of course, CALERA still allows for behavioral remedies but does not enact them as an automatic command once the thresholds are met. According to CALERA, it is still up to the courts to determine the appropriate remedy on a case-by-case basis *ex post*. Overall, although CALERA also aims at arresting harmful mergers "in their incipiency,"[70] it does not go as far as DMA in its execution. Antitrust enforcement remains dependent on cumbersome litigation after anticompetitive behavior has occurred (*ex post*) under CALERA, while DMA employs a self-executing set of service-related obligations. Therefore, it can be expected to show results earlier and on a more frequent basis than CALERA.

Both schemes use presumptions and burden shifting to facilitate antitrust enforcement. CALERA facilitates the con-

69. David McLaughlin & Ben Brody, *Democrats Pitch Antitrust Revamp for "Too Big to Fix" Deals*, BLOOMBERG (Feb. 4, 2021), https://www.bloomberg.com/news/articles/2021-02-04/klobuchar-pitches-antitrust-reform-for-too-big-to-fix-mergers.

70. Competition and Antitrust Law Enforcement Reform Act of 2021, S. 225, 117th Cong. § 2(b)(2) (2021–2022).

demnation of anticompetitive mergers by reducing the discretion of courts by instituting a presumption of anti-competitiveness. DMA presumes certain platforms to be gatekeepers making them subject to the commandments and establishes a notification obligation for mergers in the digital economy.

Moreover, the proposals align in the reduction of the importance of specific market definitions, although to different extents. DMA is not meant to focus on the undisturbed functioning of specific markets like traditional antitrust doctrine, but rather regulates digital platform operators irrespective of a specific market definition. CALERA, on the one hand, abolishes the necessity to define a relevant market where the laws do not require it explicitly (Sherman Act Sections 1–2, Clayton Act Section 7). On the other hand, it re-introduces the requirement of a market definition within the presumption for the burden shifting to kick in. Thus, market definitions will continue to play a role in tackling Big Tech under CALERA.

Furthermore, both schemes count on strengthening their enforcement agencies through new investigatory tools or increased funding. DMA pursues a revolutionary approach, centralizing enforcement powers against the new category of gatekeepers in the Commission. The introduction of potential break-ups as remedies for systemic infringements in DMA approximates the U.S. merger control regime that allows post-merger interference. However, the provision seems to be treated cautiously as a last resort under very narrow circumstances after a market investigation has been conducted. In total, both regimes intend to enhance remedial powers of the enforcement agencies.

VI. Conclusion

The United States and the European Union are united in their objective of tackling Big Tech regarding the antitrust concerns they raise. Although the introduced regimes differ in their approaches—a complementary asymmetrical new scheme with commandments addressed at gatekeepers with DMA *versus* an update of existing general antitrust laws with CALERA—they employ similar means to achieve their common agenda. Those means include presumptions and burden shifting, the reduction of the importance of a specific market definition in the digital economy, and the strengthening of antitrust enforcement agencies in terms of increased mandate and finances. Ultimately, although DMA represents a more aggressive approach than CALERA, they are not so different.