Expert group for the EU Observatory on the online platform economy

Work stream 7: oversight and enforcement

Concept note

1. Policy context

Discussions about how to stimulate a fair and flourishing online platform economy through regulation often focus on substantive matters, for instance what protection should be offered to prevent harm to businesses and consumers without unduly eroding the incentives of platforms to invest and innovate. However, effective oversight and enforcement is at least as important as the substance of the rules and yet sometimes underexplored in policy debates.

Various new EU legislative instruments relevant for the online platform economy have been adopted in recent years, such as the General Data Protection Regulation, the Platform-to-Business Regulation, the modernisation of the consumer rules in the New Deal for Consumers, the proposed Data Governance Act and the proposed Digital Services and Digital Markets Acts. Due to the large information and power asymmetries between regulators and platforms, effective oversight and enforcement is not a given. Without adequate attention for institutional design and enforcement matters, the impact of the newly adopted rules could be heavily undermined. In addition, with better coordination between the different actors involved and with improved enforcement mechanisms benefiting from data science tools, scarce enforcement resources may be more efficiently allocated to achieve the maximum impact.

2. Research/Policy questions and methodology

The exact focus of the work stream can be agreed with its members and be adapted to their expertise and interests once the group is complete. Several possible questions can be identified at this stage:

(1) how to strengthen synergies and prevent clashes (for instance, privacy versus competition) in the enforcement of different regimes that are applicable in parallel;

(2) how to create effective institutional design and mechanisms for collaboration between regulators with different types of expertise as well as between EU and national authorities;

(3) how to weigh the pros and cons of different types of enforcement for a particular area of concern: public versus private enforcement, fines and prohibitions versus settlements, adversarial versus participatory processes, legally binding regulation versus codes of conduct (such as in the context of the P2B Regulation and the DSA), etc.;

(4) what should be the role of behavioural and data sciences in market monitoring and enforcement, which are still dominated by legal and economic insights. What is the prospect of governance by technology and the use of RegTech tools?