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QUICK LINKS

European Commission fines Delivery Hero and Glovo €329 million for participating in first EU labour market cartel

On 2 June 2025, the European Commission announced that it has imposed fines totalling €329 million on Delivery Hero and Glovo for participating in a cartel that distorted competition under Article 101 of the Treaty on the Functioning of the European Union (TFEU). The Commission found that the 'by object' infringement, which lasted from July 2018 until July 2022, involved a coordinated effort by the two companies to eliminate competitive rivalry in the online food delivery sector across the EEA. This historic decision marks the first time the Commission has fined a company for anti-competitive conduct in the labour market, and also stands as a precedent for the possibility that even a minority stake in a competitor can enable collusion.

Background

Delivery Hero, headquartered in Germany, and Glovo, headquartered in Spain, are two of the largest food delivery companies in Europe, with services focused on the delivery to customers of prepared meals, groceries and other retail products.

In July 2018, Delivery Hero acquired a 15 per cent minority stake in Glovo. This shareholding was progressively increased through additional investments to more than 80 per cent, with Delivery Hero eventually obtaining sole control of Glovo in July 2022.

The infringement

The Commission's investigation, which opened in July 2024 after the Commission carried out raids on both companies in 2022 and 2023, found that Delivery Hero and Glovo had engaged in three anti-competitive practices comprising a single and continuous infringement. In particular, the Commission found that the two companies had agreed:

- not to poach each other's employees (the 'no-poach' agreement);
- to exchange commercially sensitive information (CSI); and
- to allocate national markets between themselves.

The no-poach agreement was initially formalised through limited, reciprocal no-hire clauses in the shareholders' agreement signed when Delivery Hero first acquired its minority stake in Glovo. The Commission found that within months this had evolved into a broader agreement not to actively solicit one another's employees. The Commission found that such action limited job mobility within the sector and reduced competition in the labour market, thereby negatively impacting opportunities for workers.

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In parallel, the Commission found that the companies had exchanged CSI relating to current and future pricing, strategy plans and operational capacity which enabled them to anticipate one another's actions and adjust their conduct accordingly. The Commission found that these information exchanges were facilitated by the close relationships that developed between the companies' executive teams as a result of Delivery Hero's shareholding, but went beyond facilitating the business needs of Delivery Hero as a minority investor.

Finally, in relation to the companies' allocation of geographic markets, the Commission found that the two companies had agreed to divide national markets for online food delivery by avoiding entry into each other's core national territories. They also agreed to remove existing geographic overlaps by selling their businesses in certain markets to each other, and to prevent future overlaps by coordinating which company would enter markets where neither was currently present. In this way, they directly reduced competition and consumer choice across the EEA.

Whilst the Commission emphasised that owning a stake in a competitor is not itself illegal, it found that Delivery Hero's minority shareholding in Glovo was central to facilitating these anti-competitive practices by creating structural conditions that made collusion between the parties more feasible and sustainable, because Delivery Hero was ultimately able to influence decision-making at Glovo both directly and indirectly.

The penalty

In imposing fines of €223.3 million and €105.7 million on Delivery Hero and Glovo respectively, the Commission considered the multifaceted nature of the cartel, the fact that it covered the whole of the EEA, its duration and how it evolved over time. The Commission applied a standard 10 per cent reduction to both fines under its settlement procedure in recognition of the fact that both companies acknowledged their participation in the cartel.

Significance of the decision

The decision is significant in two respects. First, it marks the Commission's first enforcement action against a cartel operating in the labour market. When announcing the decision, Teresa Ribera, the Executive Vice-President for a Clean, Just and Competitive Transition, emphasised the importance of ensuring a fair labour market where opportunities for workers are not reduced by collusion between competitors. The Commission's approach here aligns with current enforcement trends globally, including in the UK where the Competition and Markets Authority recently imposed a £4 million fine on certain companies active in the broadcasting and media sectors for bilateral exchanges of CSI about freelance workers' fees (covered in a previous newsletter), and the US, where the Department of Justice recently secured its first criminal conviction relating to wage-fixing and no-poach agreements.

Second, it is the first time that the Commission has found that a minority stake in a competitor facilitated anticompetitive conduct. As the Commission noted in its press release, the decision "*shows that horizontal cross-ownership between competitors may raise antitrust risks and should be handled carefully*". Additional caution will therefore be required when considering minority shareholdings in competitor businesses, particularly where the structure could facilitate an exchange of CSI.

Conclusion

The Commission's decision to fine Delivery Hero and Glovo stands as a significant precedent, both as the first Commission case to address cartel conduct in the labour market but also in its treatment of minority shareholdings as a mechanism for facilitating anti-competitive coordination. The substantial fines imposed reflect the gravity of the infringement and serve as a warning to companies to ensure strict compliance with European competition law.

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OTHER DEVELOPMENTS

MERGER CONTROL

CMA publishes responses to remedies review

On 29 May 2025, the UK Competition and Markets Authority (CMA) published the responses from stakeholders following its recent call for evidence on remedies in merger cases. The CMA formally launched a review of its approach to merger remedies on 12 March 2025, as part of its ongoing programme to improve the pace, predictability, proportionality and process of the UK merger control regime (the '4Ps').

In its call for evidence, the CMA sought feedback on three key themes: (i) how the CMA approaches remedies; (ii) how remedies can be used to preserve any pro-competitive effects of a merger and relevant customer benefits; and (iii) how the CMA's process of assessing remedies can be made as quick and efficient as possible. For more information on the CMA's review, refer to our previous newsletter.

The CMA published thirty-seven responses to the remedies review, including Slaughter and May's contribution (available here). Many respondents were supportive of the CMA's review, with suggestions such as: (1) removing or amending the requirement that Phase 1 remedies must be 'clear cut' and 'capable of ready implementation', to enable the CMA to consider behavioural or other non-standard remedies in a wider range of cases; (2) increased flexibility in terms of the CMA's approach to monitoring the implementation of behavioural remedies; and (3) shifting to a more active case-management approach where CMA case teams are empowered and encouraged to provide parties with meaningful feedback as early as possible from pre-notification. This would allow the parties to understand the CMA's developing line of thinking on a merger at the earliest stage, and therefore develop suitable remedy proposals accordingly.

The CMA will review the feedback received on its approach to remedies and develop specific proposals for consultation in the early autumn, with the final guidance expected by the end of 2025.

ANTITRUST

China's SAMR consults on changes to safe harbour provisions

On 3 June 2025, China's State Administration for Market Regulation (SAMR) launched a consultation on proposed revisions to the safe harbour provisions (Proposed Revisions) in the Provisions on the Prohibition of Monopoly Agreements (Provisions). The public consultation is open until 3 July.

The safe harbour mechanism was introduced for the first time when China's Antimonopoly Law was revised in 2022, but has not been used in practice. While SAMR proposed a 15 per cent market share threshold at the time, it was eventually excluded from the final version of the Provisions.

Under the Proposed Revisions, the applicable criteria for a vertical agreement to benefit from the safe harbour will depend on whether the agreement constitutes resale price maintenance (RPM). The relevant criteria are summarised in the table below. Both the market share and turnover criteria must be met.

Type of agreement	Market share threshold	Turnover threshold
RPM	Each party's market share is below 5 per cent in the relevant market	Each party's relevant annual turnover is less than RMB 100 million (USD $13.9 million)
Other vertical agreements	Each party's market share is below 15 per cent in the relevant market	Each party's relevant annual turnover is less than RMB 300 million (USD $41.8 million)

Note: if the vertical agreement involves multiple "trading counterparties" to the business operator, the market shares and turnover for the trading counterparties should be aggregated as one "party" for the purposes of the above thresholds.

It is not surprising that SAMR has proposed a more stringent set of criteria for RPM, which is consistent with the fact that RPM is an area of focus for antitrust enforcement in China. However, it is interesting to note that the proposal deviates from the approach of the EU and the UK, where RPM is considered a 'hardcore restriction' which precludes the application of the relevant safe harbour for vertical agreements.

Importantly, the Proposed Revisions specify that, in case of an investigation by SAMR, the burden will lie with the relevant business operators to prove that the agreement in question falls under the safe harbour. In addition, the safe harbour only operates as a presumption of legality, but will not exclude an agreement from the purview of the Antimonopoly Law if there is evidence of its anti-competitive effects.

The Proposed Revisions are a welcome development to the Antimonopoly Law, albeit long overdue. The safe harbour mechanism is expected to provide businesses with greater legal certainty and bring China's antitrust regime in line with international practices.

CONSUMER PROTECTION

European Commission and Consumer Protection Cooperation Network notify SHEIN of consumer protection concerns

On 26 May 2025, the Commission and the Consumer Protection Cooperation Network (CPC Network) directed the online marketplace and e-retailer SHEIN to bring certain practices on its platform in line with EU consumer laws. The CPC Network is a network of national authorities responsible for enforcing EU consumer protection laws in EU and EEA countries. The Commission facilitates, and may under certain circumstances also coordinate, joint investigation and enforcement action by the CPC Network authorities where infringements have an EU-wide dimension. The CPC Network's ongoing investigation against SHEIN is led by the competent national authorities of Belgium, France, Ireland and the Netherlands, under the coordination of the Commission.

The CPC Network found that various practices on SHEIN's platform infringe EU consumer laws, namely the Unfair Commercial Practices Directive, the Consumer Rights Directive, the Price Indication Directive and the e-Commerce Directive. This includes the following practices:

- **fake discounts and other pressure selling tactics**: pretending to offer better deals by showing price reductions that are not based on the actual 'prior prices' and otherwise putting consumers under pressure to complete purchases;
- **missing, incorrect and misleading information**: displaying incomplete and incorrect information about consumers' legal rights to return goods and receive refunds and failing to process returns and refunds in accordance with consumers' relevant rights; and
- **deceptive labels and misleading sustainability claims**: using product labels that suggest that the product offers something special when in fact the relevant feature is required by law, and providing false or deceptive information about the sustainability benefits of products.

A week after the Commission's announcement, the European Consumer Organisation, BEUC, announced that it had filed an EU-wide complaint with the Commission and the CPC Network authorities regarding SHEIN's alleged use of deceptive techniques ('dark patterns') to "*fuel overconsumption*", and called for an industry-wide investigation into fast fashion companies' compliance with EU consumer laws.

SHEIN has one month to reply to the CPC Network's findings and suggest possible commitments to address the CPC Network's concerns. If SHEIN fails to address these concerns, national authorities can take enforcement measures to ensure compliance, such as imposing fines based on SHEIN's annual turnover in the relevant EU Member States. The recent investigations and complaints against SHEIN are in line with current trends towards enhanced enforcement of consumer laws related to dark patterns and greenwashing (see our Horizon Scanning briefing on this topic).

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