

LIDC

Congress 2025 Vienna

House of Industry, 9–12 October 2025

Summary of the Conference organised by the Austrian Group within the International League of Competition Law (LIDC)



Opening Session with Keynote Speeches,
9 Panels with 50 Speakers from all areas,
Working Sessions on Questions A and B,
General Assembly of the LIDC and Partners

**Where
Competition,
IP and Unfair
Competition
meet!**

LIDC

INTERNATIONAL LEAGUE
OF COMPETITION LAW



ÖSTERREICHISCHE VEREINIGUNG
FÜR GEWERBLICHEN RECHTSSCHUTZ UND URHEBERRECHT

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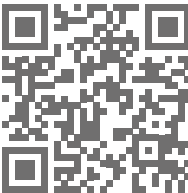
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Editorial



Hannes Seidelberger
Honorary General Secretary of the Austrian Group within the LIDC

The LIDC Congress 2025 is now history and was a huge success! More than 230 IP & Competition lawyers engaged in intensive discussions during the day and danced the night away in Vienna. But let’s start this first review from the very beginning.

Guests from all over the world gathered on Thursday evening for a joint reception, for which Wolf Theiss transformed its law firm into a bustling cocktail bar. Afterwards the party especially for the LIDC – NEX GEN continued at the Klyo Bar with a terrace overlooking the Danube Canal and a captivating live band thanks to the organising law firm Schoenherr Attorneys at Law.

On Friday morning, almost the entire Austrian Competition Community as well as all the International Participants from Europe, Asia, Australia, Brazil and the United States came together at the beautiful House of Industry for a very rich program. Natalie Harsdorf, Director General of the Austrian Federal Competition Authority, gave a keynote speech on recent developments in Austria and Europe, followed by Creighton Macy as Global Chair Antitrust & Competition at Baker McKenzie with a perspective from the United States. Then Professor Georg Kodek, President of the Austrian Supreme Court of Justice, surprised us with a welcome speech. After this opening session, eight panel discussions with 40 speakers were held under the motto “Where Competition, IP and Unfair Competition meet!”, including from the European Commission, the USA, Brazil and Asia. Detailed summaries of the whole scientific program can be found on the following pages. At the end of this intensive day the guests enjoyed a special evening with a flying buffet high up in the Gloriette of Schönbrunn Palace.

On Saturday, the conference continued with a comprehensive treatment of the two international reports on the annual Questions A and B prepared by Pranvera Këllezi on the abuse of relative market power and Nikolaus Forgó on the liability of online platforms. At the closing session of this congress on the Unified Patent Court (UPC), among others we welcomed Klaus Grabinski as President of the Court of Appeal in Luxembourg. The working part was concluded with the General Assembly of the LIDC – International League of Competition Law.

The highlight of the evening program was the Gala Dinner on Saturday evening at the Vienna Concert Hall, where all guests enjoyed a delicious meal in the festively decorated Schubert Hall before dancing euphorically until midnight. To quote a song by our live band Tanzcafe there: Mamma Mia, what a LIDC Congress in Vienna! We as the Austrian organising team worked so hard to make all this possible, and from a professional and dancing point of view, these days from 9 to 12 October were the best time of our lives thanks to all the wonderful guests.

Hannes Seidelberger
(for the Organising Committee of the LIDC Congress 2025 Vienna)



»Vienna once again hosted the LIDC-Congress after 2009 and welcomed more than 200 participants for the first time in the history of this renowned association ...«

OPENING SESSION

with Keynote Speeches

Introduction LIDC International and current developments from the Austrian/European and the United States perspective in competition law

As first part of our detailed summaries we take a look back at the beginning of the LIDC Congress 2025, where the Opening Session began with welcoming speeches by LIDC President **Zoltan Barakonyi**, LIDC Austria President **Michael Meyenburg** and LIDC Austria Secretary General **Hannes Seidelberger**. Almost the entire Austrian competition community of around 100 lawyers and other legal practitioners as well as more than 120 international professionals from Europe, Asia, Australia, Brazil and the United States came together to attend this opening meeting and the subsequent Keynote Speeches. **Natalie Harsdorf**, Director General of the Bundeswettbewerbsbehörde (Austrian Federal Competition Authority), provided in her Keynote Speech comprehensive insights into recent developments in competition law in Austria and Europe. She pointed out that competition law ensures that markets remain fair, innovative and open to consumers, businesses and society as a whole. Strong and consistent enforcement of the regulations would help to build trust, encourage investment and protect the level playing field on which Europe's economy relies. Effective competition policy would deliver real results and tangible benefits for everyone, from construction to energy to digital markets.

In the following Keynote Speech **Creighton Macy**, Baker McKenzie's Global Chair of Antitrust & Competition, spoke about recent trends in U.S. antitrust enforcement, emphasizing

that federal enforcers remain highly active and have not taken their foot off the pedal. He also pointed out that the role of state enforcers is continuing to expand, including in industries such as healthcare, which adds complexity to the regulatory landscape. The report provided key updates on merger, criminal and civil enforcement and litigation, as well as an overview of trends in private litigation and current administration's policy initiatives. Furthermore, the speech also discussed the interplay between U.S. enforcers and their counterparts around the world.

Thereafter, Professor **Georg Kodek**, President of the Austrian Supreme Court of Justice, took part in the following discussion panel, where he provided insights into current antitrust rulings, as he also serves as the relevant Senate's President. Then several current issues relating to antitrust law were discussed in greater depth on the podium. Among the audience at this first comprehensive antitrust section of the conference, we welcomed **Erika Ummenberger-Zierler** (Head of Competition Policy and Law at the Austrian Federal Ministry of Economy, Energy and Tourism), **Sonja Köller-Thier** (President of a Cartel Senate at the Higher Regional Court of Vienna), **Heinz Ludwig Majer** (Austrian Federal Cartel Attorney) and **Jörg Zehetner** (Chairman of the Austrian Competition Commission), as well as many other renowned experts in this field.



PANEL 1

Digital Gatekeepers

How can antitrust law ensure fair competition in the online sector (esp DMA)?

We continue our recap of the LIDC Congress 2025 in Vienna with the panel on the dominant gatekeepers in the digital area. This session antitrust law in the online sector, especially in light of the DMA (Digital Markets Act of the European Union) brought together enforcement, academia and private practice. Moderated by **Lena Hornkohl** (Assistant Professor for European Law at University of Vienna), **Thomas Kramler** (Head of Unit Digital Platforms at DG Competition of the European Commission), **Andras Toth** (Chairman of the Hungarian Competition Council and Associate Professor for Digital Law at Károli Gáspár University), **Astrid Ablasser-Neuhuber** (Partner at bpv Huegel Attorneys at Law) and **Verena Dorner** (Professor for Digital Ecosystems at University of Economics Vienna) opened the discussion by outlining current enforcement challenges in digital markets. They



highlighted that market dynamics evolve far more rapidly than legal proceedings. Authorities at both EU and national levels must therefore find ways to increase agility while preserving legal certainty.

A core topic was the interaction between the DMA and traditional antitrust enforcement. Some participants emphasized the need for both frameworks to operate in tandem, given that the DMA will not cover all digital markets. Others stressed that antitrust tools must continue to adapt in order to complement regulatory obligations and safeguard innovation incentives.

Further discussion addressed future technological developments, including AI ecosystems and new forms of gatekeeping power. Preparing enforcement tools for these shifts was seen as essential to avoid reactive policymaking. When looking ahead, the question arose whether Europe can maintain rigorous fairness standards and still foster globally competitive digital players. No single view prevailed, although there was broad agreement that well-designed enforcement and clear regulatory direction can support both objectives.

The panel concluded with a short reflection from each speaker on what they would change in digital competition enforcement. Suggestions ranged from faster procedures and stronger institutional cooperation to better alignment between regulation and antitrust practice.





PANEL 2

Legal Issues in Sports

Antitrust law and sports: legal challenges in this growing field with many private associations

We report on the next panel at the LIDC Congress 2025 in Vienna focused on the application of competition law to sports and the latest developments on the various aspects of this particular market. This discussion was chaired by **Fernando Castillo de la Torre** (Director Legal Service Competition and Mergers Team at the European Commission).

Georgios Gryllas (White & Case, former Legal Secretary and Référendaire at the Court of Justice of the European Union) first gave short but comprehensive overview of the recent case-law of the European Court of Justice, mentioning in particular the Superleague, ISU and Royal Antwerp judgments of December 2023 and the more recent Diarra (FIFA) judgment on restrictions on transfers of football players. The attention is now on three other pending cases (Tondela, ROGON and RCC Sports). He summarised the Advocate General's Opinions in these cases, in which judgments are expected soon.



Ben Van Rompuy (Associate Professor of European Competition Law at Leiden Law School) elaborated on some principled issues of justifications (in particular the Meca-Medina/Wouters justification), players home-grown rules, and the dichotomy object/effect that now has a decisive impact on such justifications. The analysis under recent case-law may be sometimes circular and give rise to some practical challenges. In particular, the move towards assessing justifications only under Article 101(3) TFEU (and its possible equivalent under art 102 TFEU) was discussed.

Marine Montejo (EU-qualified lawyer Competition and Sports Law) focused on dispute settlement and in particular sports arbitration. The judgments in ISU and Seraing were presented and critically analysed. In Seraing the ECJ has formulated for the first time more concretely the type of judicial review of arbitral awards that EU law requires.

Fabian Larcher (Head of Legal Department at Austrian Ski Association – ÖSV) finally zoomed in on the experience of the Austrian Ski Federation and presented a recent dispute concerning media rights, where the German and Austrian federations contested some centralization measures adopted at wider level. He also shared some personal reflections on arbitration and judicial review, based on his experience.

There was time for all panellists to comment on each other interventions and for the public to put a couple of questions as well which has shown that there are still many interesting legal issues to be addressed in this area in the future.

PANEL 3

Green Advertising

Can strict rules, such as the pre-approval of green claims to prevent green washing, lead to green hushing?

The panel discussion on this highly relevant topic about the legal assessment of environmental advertising at the LIDC Congress 2025 brought together an international group of speakers with diverse backgrounds. **Andrea Zinober**, Partner at bpv Hügel, chaired the session and began with an overview of the legal status quo and practical challenges in green advertising and in preventing greenwashing, as well as current regulatory efforts.

Ambroise Pascal from the French Ministry of Economy shared the supervisory authority's perspective and explained how consumer law combats greenwashing at both the national and European levels. Unlike the other panelists, he advocated for the pre-approval of green claims.

Erika Ummenberger-Zierler as Head of Competition Policy and Law at the Austrian Federal Ministry of Economy, Energy and Tourism provided her viewpoint on the current legal framework and expressed serious doubts about whether pre-approval of green claims would be an effective tool to prevent greenwashing.



Jennifer Beal from the Center for Protection against Unfair Competition in Germany gave an overview of recent case law concerning misleading green claims, including a prominent case regarding a "climate neutral" claim brought before the BGH by her organization. She also voiced skepticism about the planned Green Claims Directive, which proposes introducing pre-approval of green claims.

Gabriela Staber, Partner at CMS, offered insights into the practical challenges advertisers face when substantiating green claims and raised concerns that pre-approval would significantly increase costs for advertising. She warned that such measures could deter companies from making green claims altogether, potentially resulting in green hushing.



PANEL 4

Dark Patterns

Old legal issues in a new style or a need for further legislation?

The next summary of the LIDC Congress 2025 in Vienna concerns the panel on 'Dark Patterns' as manipulative digital design practices. **Barbara Kuchar** (Partner at KWR Karasek Wietrzyk attorneys at law) as chair explained in her introduction that the topic reflects the central tension between innovation and manipulation in the digital world. The key questions are whether these are actually new challenges or merely familiar unfair business practices in a modern form and, if the latter is true, why combating them remains so difficult in practice.

Matthias Hofer (Principal Associate at Freshfields attorneys at law) kicked things off with an overview of the concept of dark patterns and the relevant case law. Using decisions from Planet49 (ECJ C-673/17) to current proceedings against platforms such as Temu and Eventim he illustrated the increasing importance of manipulative online designs in the European and international enforcement context.

Christian Handig (Department for Legal Policy at the Austrian Federal Economic Chamber) provided an overview of the existing EU legal framework in relation to dark patterns. He stated that the Unfair Commercial Practices Directive (UCPD) already provides a solid foundation for combating manipulative design practices. Supplementary regulations can be found in particular in the Digital Services Act (DSA), the Digital Markets Act (DMA), Directive (EU) 2023/2673 on the distance marketing of financial services, the Artificial Intelligence Act (AI Act) and the Data Act. Referring to the ECJ ruling in case Compass Banca (ECJ C-646/22), he emphasised that even averagely informed and attentive consumers can be impaired in their freedom of choice by cognitive biases.

Susanne Augenhöfer (Professor of Competition Law at the University of Innsbruck) then presented the systematic and legal policy developments at European level. She reflected that the multitude of parallel regulations made it difficult to achieve a coherent understanding and significantly hampered enforcement. The European Commission's current 'Digital Fairness Check' and the planned 'Fairness Act' therefore aim to better integrate existing legal acts. She argued that the focus should be less on new laws and more on effective interpretation, consistent application and consistent enforcement of existing regulations.

Francis Yang (Competition Lawyer at JunHe) supplemented the overview by presenting the Asian and in particular Chinese perspective. He pointed out that in these legal systems,



the fight against manipulative online designs is also increasingly becoming a focus of attention especially in connection with e-commerce and data protection and used practical case studies to explain court practice in China, for example that making it impossible to delete an app has been recognised as an inadmissible practice.

This discussion was concluded by asking the audience who agreed with the panel's view that although no new legislation was needed, guidelines for combating dark patterns would be helpful for more effective enforcement.

PANEL 5

FSR and FDI

Recent developments on foreign subsidies regulations and foreign direct investment

We continue our highlights from the LIDC Congress 2025 in Vienna with the panel on current developments on the EU's Foreign Subsidies Regulation (FSR) and national Foreign Direct Investment (FDI) screening regimes. Chaired by **Stefan Wartinger** (Partner, Wolf Theiss, Austria), this panel explored how the EU's FSR and national FDI regimes are reshaping transaction planning, regulatory coordination, and commercial strategy.

Alexandra Leoni (Head of the Austrian Department for Foreign Investment Control) shared insights from the authority's perspective, noting a steady rise in Austrian FDI case volumes since 2020, particularly in technology-intensive and critical sectors. She highlighted trends in investor origin, enforcement outcomes, and review durations, as well as cross-border cooperation with the European Commission and peer authorities.

Catrina Lam (Senior Counsel, Des Voeux Chambers, Hong Kong) provided a non-EU view, explaining how European FDI scrutiny affects deal planning. She compared Hong Kong's with China's approach and discussed mitigation and governance strategies used to navigate jurisdictional differences within the EU.



Hubert Klinger (Senior Competition Counsel, Siemens, Germany) offered an industry perspective, illustrating how FDI risks may influence buyer selection, allocation of closing risk, and transaction documentation. He also addressed FSR preparedness, including internal processes for identifying financial contributions and implications for deal structuring and timelines.

Pascale Déchamps (Competition Economist and Partner, Accuracy, France) reviewed the Commission's approach to the distortion and balancing test under the FSR, drawing practical lessons from the first-ever Phase II commitment decision. She also discussed the implications of the draft FSR guidelines and how these may refine the FSR regime going forward.

The panel was marked by lively exchanges among the speakers, who engaged directly with each other's perspectives. Audience questions and comments enriched and concluded the discussion.





PANEL 6

Protection of Branded Products

How far does protection of branded products under unfair competition law go and what are registered property rights good for?

Another summary of the LIDC Congress 2025 in Vienna deals with a panel on the protection of branded products and the issue of look-a-like which has also often been dealt with by the courts. This panel chaired by **Christian Schumacher**, partner at Schoenherr Attorneys at Law in Vienna, brought together an interdisciplinary and international group of speakers. The topic of the session was the protection of the original manufacturers against look-a-like products, where unfair competition rights and the various IP rights such as trademarks, designs and copyright play together.

The general idea of the panel was to talk about the issue of look-a-like products from the perspective of — the likely perception of the consumers and detriments caused to the (typically market-leading) branded products — the legal protection available in various jurisdictions, in particular as regards the strength of unfair competition claims and how registered IP rights (trademarks, design rights) or even copyright can assist the branded goods producers to prevent unlawful look-a-likes.



A good example of what is at stake has been rather recently the *Thatchers vs Aldi* case in the UK (see <https://ipkitten.blogspot.com/2025/01/sweet-success-for-thatchers-in-court-of.html>). In Austria, a rather recent case concerned a look-a-like of the Jägermeister products (see <https://ipkitten.blogspot.com/2023/08/a-tale-of-three-deer.html>). And there are a lot more look-a-likes around, which lead to court decisions and which we as consumers encounter in the shops.

Cordula Cerha, senior lecturer at the Institute for Retailing and Data Science at the Vienna University of Economics and Business, Department for Marketing, introduced the audience in the marketing aspects of intended product similarity, explaining in particular the fashionable “Dupe culture”, where affordable alternatives of premium or luxury products are promoted. **Barbara Angela Johnson**, Associate General Counsel for IP at the Better Business Bureau in the US, focusing on advancing marketplace trust, added the consumer perspective in particular also as regards the non-luxury products sector.

Erich Schwarzenbacher, judge at the Austrian Supreme Court, presiding the senate specialized in all matters IP and unfair competition, outlined the different legal approaches to look-a-likes in recent decisions of the senate. Finally, **Felipe Oquendo**, partner at Lick's Attorneys in Rio de Janeiro, Brazil, and an experienced IP litigator, completed the picture by adding IP rights and unfair competition enforcement aspects especially from the Latin American perspective, pointing to several cases.

In summary, the panel showed the complexity both of the non-legal and also the legal perspectives to the ongoing trend of imitation of successful products in the market.



PANEL 7

Online Platforms and Trusted Flagger

Trusted flaggers appointed by authorities: an additional concept of private trusted informants for combating illegal content on online platforms (esp DSA)

Another summary of the LIDC Congress 2025 in Vienna deals with the panel about trusted flaggers as an additional concept of private trusted informants appointed by authorities for combating illegal content on online platforms. More than a year and a half after Article 22 of the DSA (Digital Services Act) came into full effect in all EU Member States, this panel provided an opportunity to take a look at the effectiveness of this novel approach. The panel was chaired by **Hannes Seidelberger** (CEO of the Austrian Association against Unfair Competition), who heads an entity that was named Trusted Flagger in May 2024 as the first in Austria and the second in the EU. As he emphasized in his introduction, the idea of private informants reporting illegal content is not new at all, but now for the first time such trusted flaggers are approved by official authorities and have a clear legal framework.

Bence Kertész (Legal and Policy Officer Digital Services, European Commission) then explained the concept of Trusted Flaggers from the EU's perspective under the Digital Services Act (DSA), beginning by illustrating the types of online platforms to which the regulations apply. Informative graphics accompanied his presentation, which focused in particular on the need for a uniform interpretation of the provisions, the issue of insufficient funding for the activities of Trusted Flaggers and other challenges in implementing the concept. Currently, there are around 50 recognised Trusted Flaggers in the EU.

Susanne Lackner (Vice Chairperson at the Communications Authority Austria) addressed the role of the national coordinators for digital services regulated in the DSA. She outlined the criteria for a Trusted Flagger and the appointment procedure. In principle, any organisation based in Austria with expertise in certain types of illegal content can apply for this status. In addition to its expertise and competence, the entity must be independent of online platforms. Currently, six organisations in Austria are so far certified as Trusted Flagger.

Karl Gladt (Project Manager Internet Ombudsman, Austrian Institute for Telecommunications) informed participants that in some countries, the concept of Trusted Flaggers had been discussed in the context of the DSA, as there were concerns



that this could lead to a restriction of freedom of expression. However, it was clarified that this concept is merely a professionalisation of the reporting system by including organisations with relevant experience and the Trusted Flaggers would rather help to ensure that everyone can express their opinion in the digital space without being exposed to illegal insults or threats. Furthermore, according to a DSA database, the number of reports submitted by Trusted Flaggers to online platforms is rather low.

As the Temu app is one of the most frequently downloaded applications in online retail, the remarks made by **Leonard Klenner**, Senior Compliance Manager for Europe at this platform, were also highly interesting. He referred to Temu's open access to this innovative reporting system and emphasized that the priority processing of reports from Austrian Trusted Flaggers in particular had led to appropriate solutions.

In the ensuing discussion, it was ultimately concluded that although the reports submitted by trusted flaggers had not been numerous to date, their quality was very high and the concept had proven effective on several occasions.

CLOSING PANEL

Artificial Intelligence

AI & transparency: legal challenges in the field of IP and unfair competition

We offer another summary of the LIDC Congress 2025 in Vienna regarding the panel on artificial intelligence (AI) and transparency. This discussion on the relationship between AI and legal requirements, chaired by **Philipp Homar** (Professor of Intellectual Property Law at the Vienna University of Economics and Business), examined the growing impact of European transparency obligations on AI in the context of intellectual property law and unfair competition law. Philipp Homar opened the discussion by outlining the wide range of transparency obligations introduced by the European legislator (eg in the AI Act, Digital Services Act, Omnibus Directive) and their relevance in the context of AI.

Katja Heintschel von Heinegg (CEO of the Association of the German Advertising Industry, Berlin) presented the advertising industry's perspective, emphasizing the need to confine transparency obligations to differentiate different types of AI content, namely AI-assisted content (such as image corrections), which should remain exempt from transparency requirements, and fictional content with real-life-link, which should be subject to transparency obligations.

Alexander Höller (Legal Lead, Google Austria) brought the perspective of Google and provided insights into current technological developments, including emerging tools for detecting whether content was created by AI.

Verena Dörner (Professor of Digital Ecosystems at the Vienna University of Economics and Business) analyzed the concept of transparency from an economic perspective, highlighting that transparency of AI (AI disclosure) also has diminishing effects on trust in AI.

Finally, **Rene Heinzl** (AI specialist and tech-savvy entrepreneur) introduced the dimension of competition, critically reflecting the EU's regulatory approach and its implications on European businesses.

Overall, the panel provided different perspectives on the interplay between AI, transparency and transparency obligations and the need to find a balance between fostering innovation, ensuring fair competition, and maintaining public trust through proportionate transparency obligations in the evolving AI landscape.



EXTRA PANEL

Unitary Patent

The impact of the UPC on "smaller" jurisdictions – risks and opportunities

Finally we provide a summary of the LIDC Congress 2025 in Vienna regarding the panel on: "2 years of unitary patent and many more to come". This session on the UPC focused on 'competition' in the broader sense between local and regional chambers of the Unified Patent Court (UPC) and between the UPC and national courts. Under the chairmanship of **Michael Woller**, partner at Schoenherr Attorneys at Law, the discussion was led by **Klaus Grabinski**, President of the Court of Appeal / Unified Patent Court (UPC), **Mary-Rose McGuire**, Professor of Intellectual, Property and Civil Procedure Law at the University of Osnabruck, **Mojca Mlakar**, judge at Court of First Instance / Unified Patent Court (UPC) at the Ljubljana Local Chamber, and **Rainer Beetz**, partner at SONN Patentanwälte IP Attorneys.

President Klaus Grabinski began with an overview of the structure and functioning of the UPC, followed by statistics with a particular focus on the involvement of parties from smaller Member States and the distribution of case numbers among the local chambers. In a keynote speech, Professor Mary-Rose McGuire compared the distribution of cases between the local chambers with the distribution of cases between national courts prior to the introduction of the UPC – and pointed out that important first-instance landmark decisions had been made by 'smaller' local chambers of the UPC.

Patent Attorney Rainer Beetz questioned the system set out in Article 8 of the agreement on a Unified Patent Court (UPC Agreement), which provides that certain local chambers are to be composed of two national judges (and one international judge), while the other local chambers are to be composed of only one national judge. This increases the predictability of the composition of the court for plaintiffs in certain chambers and leads to a concentration of proceedings in such chambers. Judge Mojca Mlakar provided valuable practical

insights into her work as an international judge (springer) in various chambers.

In summary, the concentration of proceedings in certain (especially German) local chambers, coupled with the underutilisation of other chambers, appears to be something of an 'anomaly'. However, this is hardly surprising given the history of case numbers prior to the introduction of the UPC and the structure of the Agreement on a Unified Patent Court.

This 'anomaly' could be mitigated by (i) greater involvement of international judges, including in chambers with two national judges (especially as rapporteurs), (ii) the increasingly apparent shift away from German as the language of proceedings towards English (and the associated easier 'mixing' of the composition of the chambers) and (iii) possibly also the creation of additional senates in regional chambers with high demand (which reduces the predictability of the composition of these chambers). However, an amendment to Article 8 of the UPC Agreement does not appear realistic.



QUESTIONS

of the Congress LIDC Vienna 2025

Every year, the LIDC organises an international Congress also to study in particular two questions related to this legal area. National Groups or individual members write a national report on each question. The national reports constitute the basis for an in-depth international report discussed during the Congress. All the reports are published by Springer and LIDC in the series “LIDC Contributions on Antitrust Law, Intellectual Property and Unfair Competition”. The two study questions prepared by the reporters and discussed during the Vienna Congress are as follows.

Working Session Question A

Is the concept of the abuse of relative market power beyond market dominance necessary for a functioning competition and what criteria should be used to assess it?

The working session on this topic was opened with a presentation by **Pranvera Këllezi**, attorney at law in Geneva, Switzerland, and international rapporteur on this issue. In her international report, she demonstrated that not all countries have specific regulations on relative market power. Those jurisdictions that regulate the phenomenon of economic dependence have chosen different legal approaches: some use competition law, others unfair competition law or special legislation. The remaining countries rely on sectoral regulations or contract law to address bargaining power imbalances, or have no regulations at all.

The discussion, moderated by **Muriel Chagny** (Université Panthéon Sorbonne, Paris, France), initially addressed the question of market analysis and the assessment of the bilateral relationship. No uniform view emerged: a rather large proportion of participants favored an assessment focused on the bilateral relationship, while another group emphasized that a market analysis should in any case be conducted, even if this is only the starting point.



In discussing the question of whether a competition law framework is necessary to deal with relative market power despite the focus on the bilateral relationship, an interesting finding emerged regarding the role of competition authorities. Proponents of regulations on relative market power are less interested in the substantive competition law framework than in enforcement by competition authorities. As administrative authorities, they can intervene more effectively than courts, which is particularly significant in countries such as Austria, which does not have administrative enforcement of unfair competition law and consumer protection law. This view was confirmed by jurisdictions with hybrid authorities, such as Australia, whose representatives explained that mechanisms for regulating economic dependence are always useful for a hybrid competition authority, as it can choose whether to apply classic competition law, unfair competition law, consumer protection law, or sectoral codes of conduct.

However, some participants expressed concerns about the concept and the associated legal uncertainty. The view was put forward that competition law should not intervene if contract law respects the will of the parties – a classic perspective that is clearly present in common law as applied in the United Kingdom.

On the fundamental question of whether regulations on relative market power are necessary for maintaining functioning competition, there was no consensus, although a majority spoke in favor. In any case, it can be concluded that the concept is useful in certain cases, market structures, or sectors, and that such regulations can prevent abusive conduct relating to bilateral bargaining power.



Working Session Question B

What responsibility or obligations should online platforms have when it comes to eliminating infringements by their users, especially in the areas of IP and unfair competition?

In the working session on Question B of the LIDC Congress 2025 Vienna, which explores the liability of platforms with regards to copyright and competition law, the international reporter **Nikolaus Forgó** (Professor of Digitalisation in Law at the University of Vienna) and **Anna Tauber** (Assistant at the Department Innovation and Digitalisation in Law at the University of Vienna) introduced the topic and the international report. The content of the international report relies on the 17 submitted national reports, allowing for a detailed summary of the international landscape. A common element was the switch from neutral hosts of content to liable actors as soon as knowledge is gained. Also, voluntary moderation of content is often not in contrast with a safe harbor exemption. However, the legal procedure regarding unlawful content, especially regarding copyright and competition law, differ heavily across jurisdictions – whilst judicial decisions are required in Brazil, direction-based procedures can be found in Singapore and platforms as decision-makers in the EU member states.

Finally, keypoints for the safeguarding of IP and competition-compliance on platforms were introduced: Right holders, users, or accredited organisations should be able to flag suspected IP or unfair competition infringements through standardised, user-friendly reporting systems. Platforms must act promptly, prioritising trusted sources, removing content when infringement is clear, and referring ambiguous cases to courts or regulators. Clear counter-notice and appeal procedures should ensure wrongly removed content is restored while respecting legal exceptions and discouraging bad-faith notices. Repeat infringers should face proportionate consequences with stay-down obligations applied after valid notices. Platforms should use independently audited

automated tools responsibly. Maintaining transparency through regular reporting on notices, responses, appeals, and tool usage, compliance with binding court or regulatory decisions, cooperation with competition authorities, and implementation of robust governance with clear responsibilities are essential. This includes regular risk assessments, and staff training emphasising IP, competition law, proportionality, user rights, and procedural safeguards.

The discussion moderated by **Felipe Oquendo** (Partner at Lick's Attorneys in Rio de Janeiro, Brazil) highlighted the challenges of addressing online infringements and moderation, particularly during elections, with multiple types of flaggers whose reliability varies. Platforms face trade-offs between quick responses and thorough content analysis, and there is a need for structured takedown procedures, including separate handling of IP and competition issues and penalties for bad-faith notices. National and EU legal frameworks are complex, with difficulties in integrating new legislation and potential value in soft-law approaches supported by enforcement mechanisms. Financial and operational burdens for small companies, the absence of statutory takedown obligations, and the global influence of European regulations were also noted, alongside the limited role of trusted flaggers relative to the volume of reports. A recent court ruling from Sweden shows that platforms may avoid liability for illegal content if adequate supervision mechanisms are in place, even when problematic material remains online.

Resolution approaches include narrowly defined repeat infringement rules, varying compliance practices, and balancing fundamental rights in decisions about account termination or content suspension.





GENERAL ASSEMBLY of the LIDC Congress 2025

The general assembly was held in a hybrid format.

Agenda

1. Welcome

2. Intervention of the Ukraine Chapter

3. Presentation of the conclusions for the questions A and B

4. Report on the activities by the Secretary General

5. Treasurer's Report and confirmation of approval of Financials 2024

6. Discharge of the officers
7. Statutory elections

8. Welcome to the China Chapter

9. Future Congresses in Bucharest and Berlin

10. Presentation of the questions A and B at the LIDC Congress 2026

11. Objective of the officers for 2026

12. Open discussion with recommendations, suggestions and requests

13. Conclusion



PARTNERS of the LIDC Congress 2025

The LIDC Congress in Vienna with a record number of more than 230 participants was a great success thanks to our fantastic partners. They not only acted as sponsors, but also participated in the scientific program itself and were involved as organisers, speakers and in other capacities.

We would therefore like to express our special thanks to the following **18 partners** from the fields of intellectual property, competition and unfair competition:

- Bundesministerium für Wirtschaft, Energie und Tourismus

Bundeswettbewerbsbehörde

Wirtschaftskammer Österreich

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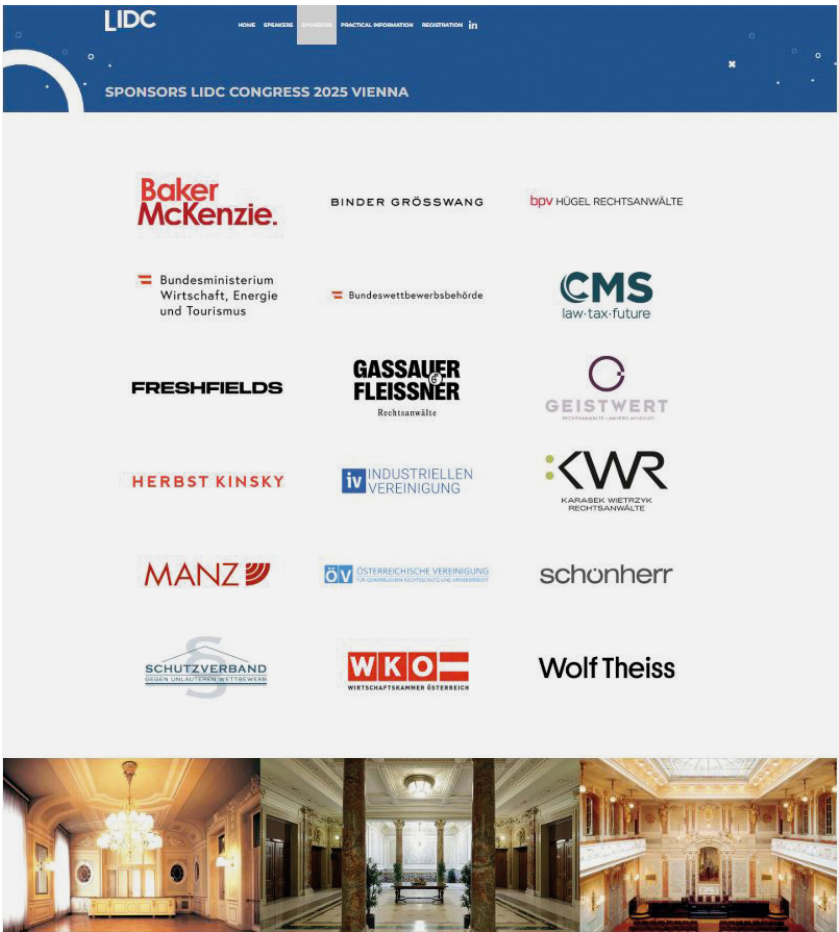
Gassauer-Fleissner
- Geistwert

Herbst Kinsky

KWR Karasek Wietrzyk

Schutzverband gegen unlauteren Wettbewerb

Österreichische Vereinigung für gewerblichen Rechtsschutz und Urheberrecht (ÖV)



It has been a great pleasure working with you all!

The entire LIDC Austrian organising team



IMPRESSIONS

of the LIDC Congress 2025 in Vienna





ORGANISING TEAM

of the LIDC Congress 2025 in Vienna

Finally, I would like to express our heartfelt thanks to the entire Austrian organising team who made all this possible.

First of all, **Michael Meyenburg**, President of our national chapter within the **LIDC – International League of Competition Law**, and his wife **Christina Meyenburg**, who especially organised a wonderful programme for the accompanying persons. And our national Treasurer **Christian Schumacher**, who was very important for all financial matters in addition to his scientific input.

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And then there is the equally dedicated other honorary organising team: **Dominik Hofmarcher** and **Stefan Wartinger**, who were primarily responsible for **LIDC – NEX GEN**, but also for the entire programme (and two wonderful events on Thursday evening) as well as **Andrea Zinober**, **Antonia Hirsch**, **Astrid Ablasser-Neuhuber**, **Barbara Kuchar**, **Clara Lehner**, **Gabriele Benedikter**, **Sigrid Tresnak**, **Christian Handig**, **Georg Kresbach**, **Jörg Zehetner**, **Max W. Mosing**, **Michael Woller**, **Philipp Homar**, **Rainer Schultes** and more for the many meetings, phone calls and emails over the last twelve months.

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We were a brilliant team and had a lot of fun together (as the photos prove). It was a great pleasure to work with you all and to celebrate the great success of this conference at the end!

Hannes Seidelberger, Honorary General Secretary of the Austrian Group within the LIDC

