

Europe

Luxembourgish Competition Law: Recent Developments

By Marco Estanqueiro & Laura Alicia Mendez



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During the last years several significant changes have taken place in the Luxembourgish competition law, not only in strengthening the country's legal framework for competition but also in enhancing institutional capacity, strategic advocacy, enforcement activity, and international cooperation.

To understand the context of this evolving landscape, it is important to highlight several key features of the country. Luxembourg, while already a well-established financial hub, has also invested in economic diversification — focusing on sectors such as digitalization, space technologies, and more recently, artificial intelligence (“AI”). The country has emerged as a European leader in connectivity, digital skills, and supercomputing. Moreover, the

government has made the development of a national AI strategy a top policy priority, and public institutions are increasingly aligning themselves with this long-term vision. This transformation is reshaping multiple sectors, including finance, aerospace, and others.

In this context, competition policy plays a crucial role in ensuring that markets remain open, innovation can flourish, and the benefits of growth are broadly shared. Recent structural changes — particularly digital transformation and the global competition for talent and investment — are bringing competition enforcement to the forefront of economic policymaking.

I. Legal Reform and Expansion of Powers

Luxembourg's first competition law dates to 2004, which established the Competition Council as the national competition authority. However, in 2023, with the transposition of the ECN+ Directive, the Council was transformed into a fully

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independent Competition Authority, endowed with legal personality, administrative autonomy, and the power to define and manage its own budget.³


In parallel, the Authority was granted new investigative and sanctioning powers in relation to unfair trading practices in the agricultural and food supply chain, addressing imbalances in vertical relationships and providing better protection for smaller market participants. In addition, the Authority is responsible for enforcing the Platform-to-Business (“P2B”) Regulation. In this respect, it is important to note that according to the European Commission, the entry into application of the Digital Markets Act (“DMA”) and Digital Services Act (“DSA”) in 2023 and 2024, respectively, has significantly reinforced the regulatory framework applicable to online intermediation services and online platforms, thereby rendering the P2B Regulation partially redundant. Reflecting this assessment, the Digital Omnibus currently under discussion proposes the repeal of substantial parts of the P2B

Regulation. From a Luxembourg perspective, the Competition Authority has observed that only very limited number of complaints have been submitted under the P2B framework, suggesting that the Regulation’s full potential has not been achieved.

Beyond the ECN+ Directive, further legislative developments have broadened the Authority’s roles. Following the transposition of Directive (EU) 2019/1937 by the Law of 16 May 2023, the Luxembourg Competition Authority was entrusted with handling whistleblower reports concerning breaches of the legislation falling in its competence. This mandate covers infringements of Articles 101 and 102 TFEU, as well as their national-law equivalents. The whistleblowing framework establishes a secure reporting channel that guarantees confidentiality and protection against retaliation, encouraging the disclosure of information that might otherwise remain undisclosed. In practice, this tool complements existing complaint procedures under Luxembourg competition law: while traditional complaints typically pursue the protection of economic interests of

³ Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to

be more effective enforcers and to ensure the proper functioning of the internal market.



identified market operators, whistleblowing serves broader public-interest objectives by facilitating the detection of anti-competitive conducts beyond individual commercial disputes.


In addition, in 2023, the Authority was designated to support the implementation of the abovementioned DMA as well as the Foreign Subsidies Regulation. It now also acts as the Digital Services Coordinator responsible for the implementation of the DSA—a significant mandate, given that more than 240 platforms active in Luxembourg are expected to fall within the scope of this legislation.

More recently, another relevant development was the transposition of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of consumers' collective interests. Through this new law, class actions may now be brought by the Authority before national jurisdictions for cessation, prohibition, and/or compensation in the interest of consumers against professionals contravening the DSA or DMA.

The expansion of powers — particularly in digital markets — undoubtedly represents a significant challenge for the Competition Authority. On the one hand, these new responsibilities create valuable synergies, as the Authority continues to develop greater expertise and technical capacity in these fields. On the other hand, this broader mandate requires careful prioritization of resources, given that regulatory activities can be highly resource intensive.

For this reason, the Authority has sought to strike a balance between its regulatory functions and its core enforcement activities, ensuring that both areas reinforce rather than dilute one another. Additionally, the Authority has worked to strengthen its collaborative relationships with other sectoral regulators — for example, in the field of consumer protection — to exercise its new responsibilities in digital markets more effectively and in a more coordinated manner.

II. Institutional Growth and Strategic Planning



The legal reforms have also enabled concrete institutional change. Since 2022, the Authority has nearly doubled its staff and placed strong emphasis on building internal capacity.

The Authority has invested in technical training for its personnel including specialized programs focused on investigative tools to detect and assess anticompetitive conducts. Staff exchanges and secondments with peer agencies — such as the French *Autorité de la Concurrence* and the European Commission—have also been actively pursued, contributing to a culture of shared expertise and cooperation.

Moreover, the Authority has entered a strategic partnership with the Luxembourg Institute of Science and Technology (“LIST”) to develop an AI-based digital assistant designed to help manage the growing volume and complexity of data in competition investigations. This initiative aligns Luxembourg’s enforcement tools with best international practices in algorithmic and data-driven environments.

Institutional independence also allows the Authority to set its own enforcement and policy priorities. This is a fundamental aspect of its autonomy, that

will enable the Authority to adopt a more focused and forward-looking approach, directing its efforts toward sectors that are critical to general interest in accordance with the country’s economic and social development.

III. Enforcement developments

The Authority has intensified its enforcement activity with the launch of new investigations. In 2024, dawn raids were conducted in the pharmaceutical and para-pharmaceutical sector. Notably, this investigation builds directly on the findings of the Authority’s earlier market study in the same sector.

In 2025, unannounced inspections were also carried out in the insurance sector, again in response to suspected anticompetitive conduct. These actions reflect a privileged focus in sectors with direct impact on consumers and systemic relevance to Luxembourg’s economy.

The Authority has also relied on commitment procedures to resolve competition concerns. In the context of a proceeding, involving the *Ordre des Architectes et des Ingénieurs-Conseils*

(“OAI”), the Authority conducted a market consultation following the submission of the OAI’s commitments to address the competition concerns identified by the investigating counsellor. The proposed commitments were subject to a public consultation. As no adverse feedback was received, the Authority concluded, in its decision of 25 March 2024, that the commitments were appropriate and proportionate, rendering the commitments binding for an indefinite timeframe.

Recently, in September last year, the Luxembourg Competition Authority announced that it had issued a Statement of Objections to two brewing companies active in Luxembourg. In this case, the Authority also relied on the findings of a sector inquiry previously conducted by the former Competition Council under Article 30 of the Law of 23 October 2011 on competition (repealed by the 2022 Competition Law), which examined the Luxembourg brewing sector. During that inquiry, the Council identified a potential restriction of competition in the ‘on-trade beer consumption’ market and considered that a


more in-depth examination of compliance with competition rules by breweries was necessary.

The two undertakings concerned by the statement of objections have presumably foreclosed the national market for the production and supply of beer to the out-of-home consumption channel — including hotels, cafés, and restaurants — through the widespread use of exclusivity agreements with beverage outlets across Luxembourg. According to the Counsellor in charge of the instruction, these exclusivity agreements may restrict competitors’ ability to enter or expand their presence in the relevant market, reduce price competition between brewers, and limit inter-brand competition within beverage outlets.⁴ The Authority’s decision will be adopted after the parties have been given the opportunity to submit written observations and to be heard at an upcoming hearing to be taken the first semester of this year.

IV. Merger Control

⁴ During the adversarial phase that follows, the parties will be able to exercise their rights of defense. Until the College of the Luxembourg Competition

Authority adopts a final decision, the actions taken do not prejudice the liability of the parties involved.



Luxembourg does not yet have a national merger control regime. However, in August 2023, Bill No. 8296 was submitted to Parliament. It proposes a mandatory notification system for mergers above certain thresholds, as well as discretionary “call-in powers” for transactions below thresholds that may pose competition concerns.

Couple of months ago, the Luxembourg’s Council of State issued its opinion on the bill, putting forward several recommendations aimed at enhancing legal consistency and certainty. As a result, the legislative process is now expected to be delayed by at least one year more.

Meanwhile, the Authority has actively made use of Article 22 of the EU Merger Regulation (“EUMR”) to refer potentially problematic cases to the European Commission. In 2024, it referred the acquisition of Boissons Heintz, a domestic beverage wholesaler, by Brasserie Nationale, Luxembourg’s largest brewer. This referral mechanism — also known as the “Dutch clause” — allows Member States

without a national merger control regime to request the Commission to review mergers that may raise competition concerns at national level.⁵

Brasserie Nationale challenged the referral before the General Court of the European Union, which upheld the European Commission’s decision to accept the case and confirmed that the Luxembourg Competition Authority had submitted its referral request within the required timeframe. This ruling represented an important milestone for the Authority and sent a clear message regarding competition enforcement in Luxembourg: even in the absence of a national merger control regime, the Authority can still ensure effective oversight by referring transactions to the European Commission.

In parallel to the Court proceedings, the European Commission conditionally approved, in June 2025, the proposed acquisition of sole control over Boissons Heintz S.à.r.l. by Munhowen S.A., a wholly owned subsidiary of Brasserie Nationale S.A. To address the Commission’s concerns, the

⁵ The essential function of the referral mechanism of the Dutch clause has been recalled by the Court in the

Illumina/Grail joined cases C-611/22 P and C-625/22 P.

parties committed to divest the majority of Boissons Heintz's wholesale beverage distribution activities to hotels, restaurants and cafés, including all necessary assets and personnel, to a suitable purchaser.

Following the approval of a purchaser of 19 December 2025, the Commission considers that effective and satisfactory competitive conditions had been restored in the relevant market. Nevertheless, the judicial proceedings remain ongoing, as Brasserie Nationale and Munhowen S.A. lodged an appeal ([C-572/25 P](#)) on 29 August 2025 against the judgment delivered on 2 July 2025 by the General Court in Case T-289/24.⁶

V. Advocacy

During the last years, three major market studies conducted by the Luxembourg competition watchdog stand out:

A report on an **inquiry into the pharmaceutical sector** (published in 2022) which revealed that many legal restrictions slow down competition and prevent the modernization of Luxembourg pharmacies.

Among other recommendations were promoting price competition by abolishing capped prices for over-the-counter medicines in pharmacies, simplifying regulation to facilitate the entry of new pharmacies and easing restrictions on the online sale of medicines.

A **sector inquiry into the real estate market in Luxembourg** (published in 2023). Among others, it recommended simplifying administrative procedures, eliminating the legal monopoly that grants banks the exclusive right to issue completion guarantees, and upgrading and regulating the real estate profession.

Additionally, in the context of sectoral regulation, the Luxembourg Institute of Regulation (“ILR”) regularly consults the Competition Authority in order to ensure that proposed regulatory measures are consistent with competition law principles, in line with Directive (EU) 2018/1972 (establishing the European Electronic Communications Code), which requires national regulatory authorities to take due account of competition law

⁶ Merger *Brasserie Nationale/Boissons Heintz*. <https://competition->

cases.ec.europa.eu/cases/M.11485. (January 15, 2026).

objectives when carrying out market analyses and imposing *ex ante* obligations. This requirement, transposed into Luxembourg law by the Law of 17 December 2021 on electronic communications networks and services, expressly provides for consultation with the authority responsible for the application of competition law. In practice, the ILR seeks the Competition Authority's opinion on draft regulatory measures, enabling it to assess the competitive analysis underlying those measures and to ensure coherence between sector-specific regulation and competition law enforcement.


Moreover, the Luxembourg Competition Authority is empowered to issue opinions on draft regulation and legislation, either *ex officio* or upon request — from the government. It is worth highlighting the Authority's increasingly prominent role in regulatory and legislative projects at an early stage. This expanding role reflects the extent to which the Authority has become a key national reference point in the design of economic and regulatory national policies.

As part of its ongoing efforts to further develop its advocacy function, the

Authority plans, from 2026 onwards, to launch a public consultation aimed at establishing a clear and predictable framework for the application for the referral mechanism under Article 22 EUMR in Luxembourg. In parallel, the Authority intends to implement an open-door policy to encourage undertakings to engage with it at an early stage of cooperation or acquisition projects. In this point, it is worth emphasizing that, following the Court of Justice's *Illumina/Grail* judgment, which rejected Article 22 referrals where the referring authority lacks jurisdiction under its own national merger control rules, Luxembourg is the only EU Member State that remains in the Article 22 EUMR "Dutch clause" configuration (i.e. a referral expressly envisaged in the absence of a national regime), and can therefore still request that the Commission examine a concentration without an EU dimension where it affects trade between Member States and threatens to significantly affect competition in Luxembourg.

VI. Innovative enforcement potential

The DSA and competition law constitute two separate legal frameworks



with distinct objectives, but in practice, their interaction potential remains unexplored. While the DSA primarily introduces obligations aimed at enhancing transparency, accountability and safety in online platforms, these regulatory requirements may also have competition law relevance, in particular by reducing information asymmetries and shedding light on practices that could raise concerns under Articles 101 or 102 TFEU.

This form of cross-fertilization is not entirely new. It echoes the approach adopted by the Court of Justice in *Meta Platforms* (Case C-252/21), where the Court confirmed that a competition authority may take account of rules external to competition law — namely General Data Protection Regulation (“GDPR”)—when assessing potentially abusive conduct under Article 102 TFEU. Although competition authorities are not competent to enforce data protection law as such, the Court recognized that compliance or non-compliance with the GDPR may constitute a relevant factual element in the competitive assessment, particularly where data-related practices contribute to market power or distort competition.

Against this background, the DSA can be expected to play a comparable role. Its transparency, risk-mitigation and governance obligations may provide valuable contextual information and evidentiary elements for the assessment of potentially anticompetitive conduct by digital platforms. At the same time, the DSA expressly preserves the application of competition law, making clear that regulatory compliance does not shield undertakings from antitrust scrutiny.

This duality reflects a pragmatic enforcement model that facilitates the early identification of harmful conduct, enables a more informed understanding of complex digital practices and promotes consistency in enforcement outcomes across legal regimes. In practice, it supports a layered approach in which *ex ante* regulatory obligations and *ex post* antitrust enforcement mutually reinforce one another, ultimately strengthening the protection of competition and the public interest in digital markets.

VII. International Cooperation and Global Engagement



For Luxembourg, international cooperation is not simply complementary—it is indispensable. Given the country’s size, openness, and economic integration, the Authority is placing high importance on engaging with the European Competition Network (“ECN”), the Organisation for Economic Co-operation and Development (“OECD”), and the International Competition Network (“ICN”).

Equally important are bilateral partnerships with other national authorities. These collaborations enhance technical and investigative capacity through joint market analysis, information exchange, and peer benchmarking.

Importantly, Luxembourg has also used its voice within these international platforms to advocate for greater inclusiveness and practical relevance for smaller agencies. Given the specific constraints that many small competition authorities face — including budgetary and resource limitations — it is vital that global cooperation efforts address their shared challenges with practical, scalable solutions.

VIII. Conclusion

Competition policy in Luxembourg stands at a defining moment in its institutional and doctrinal development. The coming years are expected to bring exciting times and a dynamic phase of growth, with new legal precedents, novel enforcement strategies — particularly in digital and innovation-driven markets — and a stronger presence in international debates. Luxembourg is increasingly seen not only as a participant, but as an important contributor to the development of European and global competition law.