The Covid-19 pandemic has forced to convert many activities from physical to digital among which, also Ascola’s Annual Conference that was planned to take place in Porto.

In respect of the victims, and to provide an encouraging sign to the competition law community, the Executive Board of Ascola has decided to maintain the Annual conference at the planned dates and to do it remotely.

To provide our vibrant community with an additional opportunity to contribute in the debate on how the Covid-19 pandemic is affecting the application of Competition Ascola’s Executive Board’s member Fabiana Di Porto has organized a panel on

**Competition law in times of pandemic**

The panel will take place at the end of Annex Session 1

**THURSDAY June 25, 2020, 9-11 CET**

Annex Session 1: Digital Markets and Competition Law

9:00-10:20 Session - Session chair: Wolfgang Kerber

10:20-11:00 Panel on competition law in times of pandemic, organized by Fabiana Di Porto

The following topics will be discussed:

1. How, if at all, was competition law enforcement affected by the COVID-19 pandemic?

For instance:

1.1 Economic background: how did Covid-19 affect supply and demand? Lockdown reduced the demand to mainly digital and required relevant re-organizational efforts (e.g. to convert most of supply to digital). At worse, it provoked great economic losses, where not economic downturns.
1.2 Excessive prices and price discrimination have been observed in the aftermath of Covid-19 outbreak, which may be of relevance in both abusive and agreement cases. However, is ‘excessive’ pricing (e.g. of masks etc.) really a market power problem or a mere consequence of an exploding demand that leads, in the short run, to very high prices (e.g. which give incentives for producing more masks)? Should they be treated any differently due to the pandemic? If so, should any specific public interest (e.g. health protection, etc.) justify misconduct?

1.3 Concerning merger control, should Competition Agencies’ attitude towards it be any different because of Covid-19? Think, e.g. to the assessment of the so-called ‘failing firm defense’, or more broadly to sensitive sectors like the Pharmaceutical, where mergers might require special care. Also, what are the possible medium/long-term consequences for competition of a strong concentration process, if relatively weaker firms have to leave markets (given that competition law might not be capable to do anything against this)?

1.4 Advocacy plays a key role: competition agencies can both point to existing regulations that limit competition and monitor emergency legislation that may harm competition for no good reason.

1.5 Concerning enforcement: to avoid over-enforcement different options are available, ranging from high tolerance, to ‘rule of reason’ (as opposed to ‘per se’ approaches), to (temporary) commitment decisions, interim measures – eventually grounded on urgency, and so forth. Should Competition Authorities refrain from using pecuniary sanctions – which might depress the economy further? Does Advocacy play a role here?

1.6 Moreover, what are the effects of the pandemic on the market power of large digital platforms (GAFAM)? Because so many activities have shifted online, a big increase of their market power can be observed (and it is not only about Amazon). This makes the current competition law / regulatory discussion about large digital platforms even more relevant and urgent.

1.7 Lastly, Covid-19 is having political effects (e.g., US/Trump vs China) that lead to further (1) de-globalization, which are gradually reducing international trade exchanges; and (2) national trade/industrial policies with the consequence of smaller markets and therefore higher concentration and less competition. What are the consequences for competition policies of this further de-integration of the world economy?