

Riccardo de Caria - Lorenza Mola - Cristina Poncibò

ACKNOWLEDGEMENT

The Editors-in-Chief, on behalf of the whole JLMI community, would like to deeply congratulate Professor Mateja Durovic, member of our Advisory Board, on being elected Judge of the European Court of Human Rights.

We are delighted to know that the Court will benefit from the unparalleled expertise of such an exceptional jurist.

Warmest wishes

R.d.C., L.M., C.P.

Riccardo de Caria - Cristina Poncibò - Piotr Tereszkievicz

FOREWORD TO ISSUE 3/2024

The present issue of the Journal of Law, Market & Innovation covers, from a comparative perspective, different topics exploring the legal regime of contracts of adhesion in the platform economy.

From a European Union law perspective, the recent 30th anniversary of the Council Directive 93/13/EEC on unfair terms in consumer contracts (UCTD) justifies an inquiry into whether statutory regulations on unfair contract terms, such as the UCTD are suitable as a regulatory framework applicable to transactions in the digital environment shaped by platform operators. As is commonly known, the UCTD has given rise to a substantial jurisprudence of the Court of Justice of the European Union (CJUE). The Court laid down interpretations and guidance, among other issues, on the concept of ‘consumer’, the requirements of ‘transparency’ and ‘fairness’ of standard contract terms and the legal consequences of breaching these requirements.

While the UCTD applies to business-to-consumer contracts, the much more recent EU Platform to Business Regulation 2019/1150 addresses issues of fairness in contracts of adhesion between digital platform operators and business users. It significantly extends the EU regulatory framework regarding contractual fairness, explicitly focusing on the platform economy.

Beyond contract law, one must emphasise the development of the EU Digital Acquis, i.e., the Digital Services Act, the Digital Markets Act, the AI Act, and the EU legal framework on data and personal data protection, i.e. the Data Act and the General Data Protection Regulation (GDPR). These overlapping legal regimes may create inconsistencies and gaps in achieving the goal of protecting digital platform users. They may also result in uncertainty for digital platforms, making it challenging for platform operators to navigate and comply with the regulatory landscape effectively. Further regulatory layers include sector-specific regulation of goods and services (e.g., financial services) and competition law.

The articles in this issue of the Journal of Law, Market & Innovation paint a rich and nuanced picture of the legal regime applicable to contracting in the digital environment in the EU and beyond.

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