

Consultation conference Day 7 - Follow up

1. Here is:
 - a. The Foodstuffs statement mentioned:
<https://suppliers.foodstuffs.co.nz/assets/documents/Exclusive-Packs-Policy-Nov-2017.pdf>
 - b. Now FTC Chair Khan's article:
<https://columbialawreview.org/content/the-separation-of-platforms-and-commerce/>
2. Also, on the separation discussions yesterday it was not clear if there was an awareness of US proposals, including the proposed Ending Monopolies Act. A pithy summary is here:
 - a. <https://www.crowell.com/NewsEvents/AlertsNewsletters/all/House-Antitrust-Reform-Bills-Could-Restrict-How-the-Largest-Online-Platforms-Do-Business-and-Influence-Future-Enforcement-Trends>
 - b. House - 06/24/2021 Ordered to be Reported (Amended).

[H.R.3826 - Platform Competition and Opportunity Act of 2021](#)

[H.R.3825 - Ending Platform Monopolies Act](#)

[H.R.3816 - American Choice and Innovation Online Act](#)

[H.R.3849 - ACCESS Act of 2021](#)

[H.R.3843 - Merger Filing Fee Modernization Act of 2021](#)

[H.R.3460 - State Antitrust Enforcement Venue Act of 2021](#)
3. Similarly, we note:
 - a. This European Commission link: [The Digital Markets Act: ensuring fair and open digital markets.](#)
 - b. Bloomberg [reported](#) on it as follows (emphasis **added**):

*Under the EU's new Digital Markets Act, companies deemed to be so-called "gatekeepers" **won't be allowed to rank their offerings above rivals on their own platforms, or use competitors' data to compete with them**, according to the proposed regulation ...*

*Companies like [Amazon.com Inc.](#), [Apple Inc.](#) or [Alphabet Inc.](#)'s Google could face fines of as much as 10% of their revenue if they don't comply, while a company that has repeatedly breached the rules **could face orders to divest businesses**, confirming a Bloomberg [report on Monday](#). **Gatekeepers will also need to inform regulators about smaller acquisitions that would otherwise fall below traditional merger-review thresholds.***
4. The above are relevant to dominant platforms / networks / intermediaries competing with participants and structural remedies (including market perception on structural separation).
5. This 3 November 2021 DOJ media release [Justice Department Sues to Block Penguin Random House's Acquisition of Rival Publisher Simon & Schuster](#) highlights demand-side market power concerns.